Volume 3

STATUTES OF CALIFORNIA

AND DIGESTS OF MEASURES

1985

Constitution of 1879 as Amended

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

1985–86 Regular Session

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CHAPTER 1204

An act to amend Sections 97, 97.5, and 98 of, and to add Section 99.4 to, the Revenue and Taxation Code, relating to property tax revenue allocation, and declaring the urgency thereof, to take effect immediately.

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

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

SECTION 1. Section 97 of the Revenue and Taxation Code is amended to read:

97. Except as otherwise provided in Section 97.3, for the 1980–81 fiscal year and each fiscal year thereafter, property tax revenues shall be apportioned to each jurisdiction pursuant to this section and Section 97.5 by the county auditor, subject to allocation and payment of funds as provided for in subdivision (b) of Section 33670 of the Health and Safety Code, to each jurisdiction in the following manner:

(a) Except as provided in subdivision (b), for each tax rate area, each jurisdiction shall be allocated an amount of property tax revenue equal to the amount of property tax revenue allocated pursuant to this chapter to each jurisdiction in the prior fiscal year, modified by any adjustments required by Section 99 or 99.4.

(b) For each tax rate area, each special district shall be allocated an amount of property tax revenue equal to the amount of property tax revenue which would have been allocated pursuant to this chapter to such district in the prior fiscal year if no adjustment had been made pursuant to Section 98.6. This amount shall then be adjusted for the current year pursuant to Section 98.6.

(c) The difference between the total amount of property tax revenue and the amounts allocated pursuant to subdivision (a) shall be allocated pursuant to Section 98, and shall be known as the "annual tax increment."

(d) For purposes of this section, the amount of property tax revenue referred to in subdivision (a) shall not include amounts generated by the increased assessments under Chapter 3.5

(commencing with Section 75).

SEC. 1.3. Section 97 of the Revenue and Taxation Code is amended to read:

97. Except as otherwise provided in Sections 97.3 and 97.32, for the 1980–81 fiscal year and each fiscal year thereafter, property tax revenues shall be apportioned to each jurisdiction pursuant to this section and Section 97.5 by the county auditor, subject to allocation and payment of funds as provided for in subdivision (b) of Section 33670 of the Health and Safety Code, to each jurisdiction in the following manner:

(a) Except as provided in subdivision (b), for each tax rate area, each jurisdiction shall be allocated an amount of property tax revenue equal to the amount of property tax revenue allocated pursuant to this chapter to each jurisdiction in the prior fiscal year, modified by any adjustments required by Section 99 or 99.4.

(b) For each tax rate area, each special district shall be allocated an amount of property tax revenue equal to the amount of property tax revenue which would have been allocated pursuant to this chapter to such district in the prior fiscal year if no adjustment had been made pursuant to Section 98.6. This amount shall then be adjusted for the current year pursuant to Section 98.6.

(c) The difference between the total amount of property tax revenue and the amounts allocated pursuant to subdivision (a) shall be allocated pursuant to Section 98, and shall be known as the "annual tax increment."

(d) For purposes of this section, the amount of property tax revenue referred to in subdivision (a) shall not include amounts generated by the increased assessments under Chapter 3.5 (commencing with Section 75).

SEC. 1.5. Section 97 of the Revenue and Taxation Code is amended to read:

97. Except as otherwise provided in Sections 97.3, 97.35, and 98.1, for the 1980–81 fiscal year and each fiscal year thereafter, property tax revenues shall be apportioned to each jurisdiction pursuant to this section and Section 97.5 by the county auditor, subject to allocation and payment of funds as provided for in subdivision (b) of Section 33670 of the Health and Safety Code, to each jurisdiction in the following manner:

(a) Except as provided in subdivision (b), for each tax rate area, each jurisdiction shall be allocated an amount of property tax revenue equal to the amount of property tax revenue allocated pursuant to this chapter to each jurisdiction in the prior fiscal year, modified by any adjustments required by Section 99 or 99.4.

(b) For each tax rate area, each special district shall be allocated an amount of property tax revenue equal to the amount of property tax revenue which would have been allocated pursuant to this chapter to such district in the prior fiscal year if no adjustment had been made pursuant to Section 98.6. This amount shall then be adjusted for the current year pursuant to Section 98.6.

(c) The difference between the total amount of property tax revenue and the amounts allocated pursuant to subdivision (a) shall be allocated pursuant to Section 98, and shall be known as the "annual tax increment."

(d) For purposes of this section, the amount of property tax revenue referred to in subdivision (a) shall not include amounts generated by the increased assessments under Chapter 3.5 (commencing with Section 75).

SEC. 1.7. Section 97 of the Revenue and Taxation Code is amended to read:

97. Except as otherwise provided in Sections 97.3, 97.32, 97.35, and 98.1, for the 1980–81 fiscal year and each fiscal year thereafter, property tax revenues shall be apportioned to each jurisdiction pursuant to this section and Section 97.5 by the county auditor, subject to allocation and payment of funds as provided for in subdivision (b) of Section 33670 of the Health and Safety Code, to each jurisdiction in the following manner:

(a) Except as provided in subdivision (b), for each tax rate area, each jurisdiction shall be allocated an amount of property tax revenue equal to the amount of property tax revenue allocated pursuant to this chapter to each jurisdiction in the prior fiscal year, modified by any adjustments required by Section 99 or 99.4.

(b) For each tax rate area, each special district shall be allocated an amount of property tax revenue equal to the amount of property tax revenue which would have been allocated pursuant to this chapter to such district in the prior fiscal year if no adjustment had been made pursuant to Section 98.6. This amount shall then be adjusted for the current year pursuant to Section 98.6.

(c) The difference between the total amount of property tax revenue and the amounts allocated pursuant to subdivision (a) shall be allocated pursuant to Section 98, and shall be known as the "annual tax increment."

(d) For purposes of this section, the amount of property tax revenue referred to in subdivision (a) shall not include amounts generated by the increased assessments under Chapter 3.5 (commencing with Section 75).

SEC. 2. Section 97.5 of the Revenue and Taxation Code is amended to read:

97.5. For the purpose of apportioning property tax revenues each fiscal year:

(a) The amount of property tax revenue allocated pursuant to subdivisions (a) and (b) of Section 96 or subdivision (a) of Section 97, modified by any adjustments made pursuant to Section 99 or 99.4, and subdivision (e) of Section 98, shall be combined to compute the total amount of property tax revenue allocated to the jurisdiction with respect to the tax rate area.

(b) The total amount of property tax revenue allocated to each jurisdiction with respect to all tax rate areas as determined pursuant to subdivision (a) shall be added to compute a total amount of

property tax revenue for a jurisdiction in all tax rate areas.

(c) Each amount determined pursuant to subdivision (b) shall be divided by the total of all such amounts computed. The quotient determined shall be used to apportion actual property tax collections and shall be known as the "property tax apportionment factors."

(d) For 1980–81 and each year thereafter, the property tax apportionment factors for the current year shall be used to apportion the total amount paid to a county annually for reimbursement of tax loss from business inventory exemptions pursuant to Chapter 1150 of the Statutes of 1979.

(e) For 1980–81 and each year thereafter, prior years' property tax revenues shall be apportioned using the factors determined pursuant to subdivision (c) for the immediately preceding fiscal year.

(f) For 1979–80, prior years' property tax revenues shall be apportioned using the tax allocation factors computed pursuant to Section 26912 of the Government Code.

(g) Notwithstanding the provisions of this section property tax revenues may be apportioned by tax rate area.

(h) Supplemental property tax revenues for 1985–86 and each year thereafter, generated by Sections 75 to 75.80, inclusive, shall be apportioned using the property tax apportionment factors for the current year.

SEC. 3. Section 98 of the Revenue and Taxation Code is amended to read:

98. The difference between the total amount of property tax revenue computed each year using the equalized assessment roll and the sum of the amounts allocated pursuant to subdivisions (a) and (b) of Section 96 or subdivision (a) of Section 97 shall be known and may be cited as the annual tax increment, and shall be allocated, subject to allocation and payment of funds as provided for in subdivision (b) of Section 33670 of the Health and Safety Code, and modified by any adjustments made pursuant to Section 99 or 99.4, as follows:

(a) For each tax rate area, the auditor shall determine an amount of property tax revenue by multiplying the value of the change in taxable assessed value from the equalized assessment roll for the prior fiscal year to the equalized assessment roll for the current fiscal year by a tax rate of four dollars ($4) per one hundred dollars ($100) of assessed value. When computing the change in taxable assessed value between the 1980–81 fiscal year and the 1981–82 fiscal year, the assessed values for the 1980–81 fiscal year shall be multiplied by four. Starting with the 1981–82 fiscal year, the tax rate used in this calculation shall be one dollar ($1) per one hundred dollars ($100) of full value.

(b) Each amount determined pursuant to subdivision (a) shall be divided by the total of all such amounts computed for all tax rate areas within the county.

(c) The difference between the total amount of property tax revenue for the county and the sum of the amounts allocated

pursuant to subdivisions (a) and (b) of Section 96 or subdivision (a) of Section 97 shall be computed.

(d) The amount determined pursuant to subdivision (c) shall be multiplied by the quotients determined pursuant to subdivision (b) to derive, for each tax rate area, the amount of property tax revenue attributable to changes in assessed valuation.

(e) Except as provided in paragraph (4) of subdivision (b) of Section 97.3 with respect to the County of Orange in the 1984–85 fiscal year only, the amount of property tax revenue determined pursuant to subdivision (d) shall be allocated to the jurisdictions in the tax rate area in the same proportion that the total property tax revenue determined pursuant to subdivision (d) for the prior year was allocated to all such jurisdictions in the tax rate area except that those proportions within each tax rate area may be adjusted for affected agencies pursuant to the provisions of Section 99 or 99.4.

(f) For the 1979–80 fiscal year only:

(1) The amount of property tax revenue, attributable to the tax rate area, for each jurisdiction for the prior fiscal year shall be considered to be the total property tax revenue for such jurisdiction for fiscal year 1978–79 allocated among tax rate areas in the same proportion which the taxable assessed valuation for fiscal year 1978–79 in each tax rate area bears to the total taxable assessed valuation of all tax rate areas in which the jurisdiction was located in fiscal year 1978–79.

(2) Property tax revenue received by local agencies in the prior fiscal year shall include the amount of state assistance payments allocated to each local agency, allocated among tax rate areas in proportion to the jurisdiction's taxable assessed valuation within each tax rate area for the 1978–79 fiscal year.

(3) Property tax revenue received by school entities in the prior fiscal year shall be reduced by the adjustments required by subdivision (b) of Section 96, allocated among tax rate areas, in proportion to the school entity's taxable assessed valuation within each tax rate area for the 1978–79 fiscal year.

(g) Any agency which has not filed a map of its boundaries by January 1, in compliance with Chapter 8 (commencing with Section 54900) of Part 1 of Division 2 of Title 5 of the Government Code, shall not receive any allocation pursuant to this section for the following fiscal year.

(h) For the purpose of this section, for the 1980–81 fiscal year, the 1979–80 taxable assessed valuation shall be adjusted to delete the amounts reflecting prior years' taxable business inventories.

SEC. 3.3. Section 98 of the Revenue and Taxation Code is amended to read:

98. The difference between the total amount of property tax revenue computed each year using the equalized assessment roll and the sum of the amounts allocated pursuant to subdivisions (a) and (b) of Section 96 or subdivision (a) of Section 97 shall be known and may be cited as the annual tax increment, and shall be allocated,

subject to allocation and payment of funds as provided for in subdivision (b) of Section 33670 of the Health and Safety Code, and modified by any adjustments made pursuant to Section 99 or 99.4, as follows:

(a) For each tax rate area, the auditor shall determine an amount of property tax revenue by multiplying the value of the change in taxable assessed value from the equalized assessment roll for the prior fiscal year to the equalized assessment roll for the current fiscal year by a tax rate of four dollars ($4) per one hundred dollars ($100) of assessed value. When computing the change in taxable assessed value between the 1980–81 fiscal year and the 1981–82 fiscal year, the assessed values for the 1980–81 fiscal year shall be multiplied by four. Starting with the 1981–82 fiscal year, the tax rate used in this calculation shall be one dollar ($1) per one hundred dollars ($100) of full value.

(b) Each amount determined pursuant to subdivision (a) shall be divided by the total of all such amounts computed for all tax rate areas within the county.

(c) The difference between the total amount of property tax revenue for the county and the sum of the amounts allocated pursuant to subdivisions (a) and (b) of Section 96 or subdivision (a) of Section 97 shall be computed.

(d) The amount determined pursuant to subdivision (c) shall be multiplied by the quotients determined pursuant to subdivision (b) to derive, for each tax rate area, the amount of property tax revenue attributable to changes in assessed valuation.

(e) Except as provided in paragraph (4) of subdivision (b) of Section 97.3 with respect to the County of Orange in the 1984–85 fiscal year only, and in subdivision (d) of Section 97.32 in the 1985–86 fiscal year only, the amount of property tax revenue determined pursuant to subdivision (d) shall be allocated to the jurisdictions in the tax rate area in the same proportion that the total property tax revenue determined pursuant to subdivision (d) for the prior year was allocated to all such jurisdictions in the tax rate area except that those proportions within each tax rate area may be adjusted for affected agencies pursuant to the provisions of Section 99 or 99.4.

(f) For the 1979–80 fiscal year only:

(1) The amount of property tax revenue, attributable to the tax rate area, for each jurisdiction for the prior fiscal year shall be considered to be the total property tax revenue for such jurisdiction for fiscal year 1978–79 allocated among tax rate areas in the same proportion which the taxable assessed valuation for fiscal year 1978–79 in each tax rate area bears to the total taxable assessed valuation of all tax rate areas in which the jurisdiction was located in fiscal year 1978–79.

(2) Property tax revenue received by local agencies in the prior fiscal year shall include the amount of state assistance payments allocated to each local agency, allocated among tax rate areas in proportion to the jurisdiction's taxable assessed valuation within each

tax rate area for the 1978–79 fiscal year.

(3) Property tax revenue received by school entities in the prior fiscal year shall be reduced by the adjustments required by subdivision (b) of Section 96, allocated among tax rate areas, in proportion to the school entity's taxable assessed valuation within each tax rate area for the 1978–79 fiscal year.

(g) Any agency which has not filed a map of its boundaries by January 1, in compliance with Chapter 8 (commencing with Section 54900) of Part 1 of Division 2 of Title 5 of the Government Code, shall not receive any allocation pursuant to this section for the following fiscal year.

(h) For the purpose of this section, for the 1980–81 fiscal year, the 1979–80 taxable assessed valuation shall be adjusted to delete the amounts reflecting prior years' taxable business inventories.

SEC. 3.5. Section 98 of the Revenue and Taxation Code is amended to read:

98 The difference between the total amount of property tax revenue computed each year using the equalized assessment roll and the sum of the amounts allocated pursuant to subdivisions (a) and (b) of Section 96 or subdivision (a) of Section 97 shall be known and may be cited as the annual tax increment, and shall be allocated, subject to allocation and payment of funds as provided for in subdivision (b) of Section 33670 of the Health and Safety Code, and modified by any adjustments made pursuant to Section 99 or 99.4, as follows:

(a) For each tax rate area, the auditor shall determine an amount of property tax revenue by multiplying the value of the change in taxable assessed value from the equalized assessment roll for the prior fiscal year to the equalized assessment roll for the current fiscal year by a tax rate of four dollars ($4) per one hundred dollars ($100) of assessed value. When computing the change in taxable assessed value between the 1980–81 fiscal year and the 1981–82 fiscal year, the assessed values for the 1980–81 fiscal year shall be multiplied by four. Starting with the 1981–82 fiscal year, the tax rate used in this calculation shall be one dollar ($1) per one hundred dollars ($100) of full value.

(b) Each amount determined pursuant to subdivision (a) shall be divided by the total of all such amounts computed for all tax rate areas within the county.

(c) The difference between the total amount of property tax revenue for the county and the sum of the amounts allocated pursuant to subdivisions (a) and (b) of Section 96 or subdivision (a) of Section 97 shall be computed.

(d) The amount determined pursuant to subdivision (c) shall be multiplied by the quotients determined pursuant to subdivision (b) to derive, for each tax rate area, the amount of property tax revenue attributable to changes in assessed valuation.

(e) Except as provided in Section 98.1, as provided in paragraph (4) of subdivision (b) of Section 97.3 in the 1984–85 fiscal year only,

and as provided in paragraph (4) of subdivision (b) of Section 97.35 in the 1986–87 fiscal year only, the amount of property tax revenue determined pursuant to subdivision (d) shall be allocated to the jurisdictions in the tax rate area in the same proportion that the total property tax revenue determined pursuant to subdivision (d) for the prior year was allocated to all such jurisdictions in the tax rate area except that those proportions within each tax rate area may be adjusted for affected agencies pursuant to the provisions of Section 99 or 99.4.

(f) For the 1979–80 fiscal year only:

(1) The amount of property tax revenue, attributable to the tax rate area, for each jurisdiction for the prior fiscal year shall be considered to be the total property tax revenue for such jurisdiction for fiscal year 1978–79 allocated among tax rate areas in the same proportion which the taxable assessed valuation for fiscal year 1978–79 in each tax rate area bears to the total taxable assessed valuation of all tax rate areas in which the jurisdiction was located in fiscal year 1978–79.

(2) Property tax revenue received by local agencies in the prior fiscal year shall include the amount of state assistance payments allocated to each local agency, allocated among tax rate areas in proportion to the jurisdiction's taxable assessed valuation within each tax rate area for the 1978–79 fiscal year.

(3) Property tax revenue received by school entities in the prior fiscal year shall be reduced by the adjustments required by subdivision (b) of Section 96, allocated among tax rate areas, in proportion to the school entity's taxable assessed valuation within each tax rate area for the 1978–79 fiscal year.

(g) Any agency which has not filed a map of its boundaries by January 1, in compliance with Chapter 8 (commencing with Section 54900) of Part 1 of Division 2 of Title 5 of the Government Code, shall not receive any allocation pursuant to this section for the following fiscal year.

(h) For the purpose of this section, for the 1980–81 fiscal year, the 1979–80 taxable assessed valuation shall be adjusted to delete the amounts reflecting prior years' taxable business inventories.

SEC. 3.7. Section 98 of the Revenue and Taxation Code is amended to read:

98. The difference between the total amount of property tax revenue computed each year using the equalized assessment roll and the sum of the amounts allocated pursuant to subdivisions (a) and (b) of Section 96 or subdivision (a) of Section 97 shall be known and may be cited as the annual tax increment, and shall be allocated, subject to allocation and payment of funds as provided for in subdivision (b) of Section 33670 of the Health and Safety Code, and modified by any adjustments made pursuant to Section 99 or 99.4, as follows:

(a) For each tax rate area, the auditor shall determine an amount of property tax revenue by multiplying the value of the change in

taxable assessed value from the equalized assessment roll for the prior fiscal year to the equalized assessment roll for the current fiscal year by a tax rate of four dollars ($4) per one hundred dollars ($100) of assessed value. When computing the change in taxable assessed value between the 1980–81 fiscal year and the 1981–82 fiscal year, the assessed values for the 1980–81 fiscal year shall be multiplied by four. Starting with the 1981–82 fiscal year, the tax rate used in this calculation shall be one dollar ($1) per one hundred dollars ($100) of full value.

(b) Each amount determined pursuant to subdivision (a) shall be divided by the total of all such amounts computed for all tax rate areas within the county.

(c) The difference between the total amount of property tax revenue for the county and the sum of the amounts allocated pursuant to subdivisions (a) and (b) of Section 96 or subdivision (a) of Section 97 shall be computed.

(d) The amount determined pursuant to subdivision (c) shall be multiplied by the quotients determined pursuant to subdivision (b) to derive, for each tax rate area, the amount of property tax revenue attributable to changes in assessed valuation.

(e) Except as provided in Section 98.1, as provided in paragraph (4) of subdivision (b) of Section 97.3 in the 1984–85 fiscal year only, as provided in subdivision (d) of Section 97.32 in the 1985–86 fiscal year only, and as provided in paragraph (4) of subdivision (b) of Section 97.35 in the 1986–87 fiscal year only, the amount of property tax revenue determined pursuant to subdivision (d) shall be allocated to the jurisdictions in the tax rate area in the same proportion that the total property tax revenue determined pursuant to subdivision (d) for the prior year was allocated to all such jurisdictions in the tax rate area except that those proportions within each tax rate area may be adjusted for affected agencies pursuant to the provisions of Section 99 or 99.4.

(f) For the 1979–80 fiscal year only

(1) The amount of property tax revenue, attributable to the tax rate area, for each jurisdiction for the prior fiscal year shall be considered to be the total property tax revenue for such jurisdiction for fiscal year 1978–79 allocated among tax rate areas in the same proportion which the taxable assessed valuation for fiscal year 1978–79 in each tax rate area bears to the total taxable assessed valuation of all tax rate areas in which the jurisdiction was located in fiscal year 1978–79.

(2) Property tax revenue received by local agencies in the prior fiscal year shall include the amount of state assistance payments allocated to each local agency, allocated among tax rate areas in proportion to the jurisdiction's taxable assessed valuation within each tax rate area for the 1978–79 fiscal year.

(3) Property tax revenue received by school entities in the prior fiscal year shall be reduced by the adjustments required by subdivision (b) of Section 96, allocated among tax rate areas, in

proportion to the school entity's taxable assessed valuation within each tax rate area for the 1978–79 fiscal year.

(g) Any agency which has not filed a map of its boundaries by January 1, in compliance with Chapter 8 (commencing with Section 54900) of Part 1 of Division 2 of Title 5 of the Government Code, shall not receive any allocation pursuant to this section for the following fiscal year.

(h) For the purpose of this section, for the 1980–81 fiscal year, the 1979–80 taxable assessed valuation shall be adjusted to delete the amounts reflecting prior years' taxable business inventories.

SEC. 4. Section 99.4 is added to the Revenue and Taxation Code, to read:

99.4. (a) For the purposes of the computations required by this chapter for the 1985–86 fiscal year and fiscal years thereafter, in the case of any transfer of property tax revenues between local agencies which is adopted and approved in conformity with subdivisions (b) and (c), the auditor shall adjust the allocation of property tax revenue determined pursuant to Section 97, or the annual tax increment determined pursuant to Section 98, for those local agencies whose allocation would be altered by the transfer.

(b) Commencing with the 1985–86 fiscal year, any local agency may, by the adoption of a resolution of its governing body or governing board, determine to exchange any portion of its property tax revenues which is allocable to one or more tax rate areas within the local agency with one or more other local agencies having the same tax rate area or tax rate areas. Upon the local agency's adoption of the resolution, the local agency shall notify the board of supervisors of the county or the city council of the city within which the exchange of property tax revenues is proposed.

(c) If the board of supervisors or the city council concurs with the proposed exchange of property tax revenue, the board or council shall, by resolution, notify the county auditor of the approved exchange.

(d) Upon receipt of notification from the board of supervisors or the city council, the county auditor shall make the necessary adjustments specified in subdivision (a).

(e) Prior to the adoption or approval by any local agency of a transfer of property tax revenues pursuant to this section, each local agency which will be affected by the proposed transfer shall hold a public hearing to consider the effect of the proposed transfer on fees, charges, assessments, taxes, or other revenues. Notice of the hearing shall be published pursuant to Section 6061 of the Government Code in one or more newspapers of general circulation within each affected local agency.

(f) No local agency shall reallocate property tax revenue pursuant to this section unless each of the following conditions exists:

(1) The transferring agency determines that revenues are available for this purpose.

(2) The transfer will not result in any increase in the ratio

between the amount of revenues of the transferring agency which are generated by regulatory licenses, use charges, user fees, or assessments and used to finance services provided by the transferring agency.

(3) The transfer will not impair the ability of the transferring agency to provide existing services.

(4) The transfer will not result in a reduction of property tax revenues to school entities.

SEC. 5. (a) Section 1.3 of this bill incorporates amendments to Section 97 of the Revenue and Taxation Code proposed by both this bill and AB 1867. 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 97 of the Revenue and Taxation Code, (3) SB 1091 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1867, in which case Section 97 of the Revenue and Taxation Code, as amended by AB 1867, shall remain operative only until the operative date of this bill, at which time Section 1.3 of this bill shall become operative, and Sections 1, 1.5, and 1.7 of this bill shall not become operative.

(b) Section 1.5 of this bill incorporates amendments to Section 97 of the Revenue and Taxation Code proposed by both this bill and SB 1091. 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 97 of the Revenue and Taxation Code, (3) AB 1867 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 1091, in which case Section 97 of the Revenue and Taxation Code, as amended by SB 1091, shall remain operative only until the operative date of this bill, at which time Section 1.5 of this bill shall become operative, and Sections 1, 1.3, and 1.7 of this bill shall not become operative.

(c) Section 1.7 of this bill incorporates amendments to Section 97 of the Revenue and Taxation Code proposed by this bill, AB 1867, and SB 1091. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1986, (2) all three bills amend Section 97 of the Revenue and Taxation Code, and (3) this bill is enacted after AB 1867 and SB 1091, in which case Section 97 of the Revenue and Taxation Code, as amended by AB 1867 and SB 1091, shall remain operative only until the operative date of this bill, at which time Section 1.7 of this bill shall become operative, and Sections 1, 1.3, and 1.5 of this bill shall not become operative.

SEC. 6. (a) Section 3.3 of this bill incorporates amendments to Section 98 of the Revenue and Taxation Code proposed by both this bill and AB 1867. 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 98 of the Revenue and Taxation Code, (3) SB 1091 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1867, in which case Section 98 of the Revenue and Taxation Code, as amended by AB 1867, shall remain

operative only until the operative date of this bill, at which time Section 3.3 of this bill shall become operative and Sections 3, 3.5, and 3.7 of this bill shall not become operative.

(b) Section 3.5 of this bill incorporates amendments to Section 98 of the Revenue and Taxation Code proposed by both this bill and SB 1091. 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 98 of the Revenue and Taxation Code, (3) AB 1867 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 1091, in which case Section 98 of the Revenue and Taxation Code, as amended by SB 1091, shall remain operative only until the operative date of this bill, at which time Section 3.5 of this bill shall become operative and Sections 3, 3.3, and 3.7 of this bill shall not become operative.

(c) Section 3.7 of this bill incorporates amendments to Section 98 of the Revenue and Taxation Code proposed by this bill, AB 1867, and SB 1091. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1986, (2) all three bills amend Section 98 of the Revenue and Taxation Code, and (3) this bill is enacted after AB 1867 and SB 1091, in which case Section 98 of the Revenue and Taxation Code, as amended by AB 1867 and SB 1091, shall remain operative only until the operative date of this bill, at which time Section 3.7 of this bill shall become operative, and Sections 3, 3.3, and 3.5 of this bill shall not become operative.

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 the provisions of this act to apply to the 1985–86 fiscal year, it is necessary for this act to take effect immediately.

CHAPTER 1205

An act to amend Section 186.2 of the Penal Code, relating to profiteering.

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

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

SECTION 1. Section 186.2 of the Penal Code is amended to read:

186.2. For purposes of the application of this chapter, the following definitions shall govern:

(a) "Criminal profiteering activity" means any act committed or attempted or any threat made for financial gain or advantage, which act or threat may be charged as a crime under any of the following

sections:

(1) Arson, as defined in Section 451.

(2) Bribery, as defined in Sections 67, 68, and 69.

(3) Felonious assault, as defined in Section 245.

(4) Embezzlement, as defined in Sections 424 and 503.

(5) Extortion, as defined in Section 518.

(6) Forgery, as defined in Section 470.

(7) Gambling, as defined in Sections 337a to 337f, inclusive, and Section 337i, except the activities of a person who participates solely as an individual bettor.

(8) Kidnapping, as defined in Section 207.

(9) Mayhem, as defined in Section 203.

(10) Murder, as defined in Section 187.

(11) Pimping and pandering, as defined in Section 266.

(12) Receiving stolen property, as defined in Section 496.

(13) Robbery, as defined in Section 211.

(14) Solicitation of crimes, as defined in Section 653f.

(15) Grand theft, as defined in Section 487.

(16) Trafficking in controlled substances, as defined in Sections 11351, 11352, and 11353 of the Health and Safety Code.

(17) Violation of the laws governing corporate securities, as defined in Section 25541 of the Corporations Code.

(18) Presentation of a false or fraudulent claim, as defined in Section 556 of the Insurance Code.

(19) Any of the offenses contained in Chapter 7.5 (commencing with Section 311) of Title 9, relating to obscene matter, or in Chapter 7.6 (commencing with Section 313) of Title 9, relating to harmful matter which may be prosecuted as a felony.

(20) Conspiracy to commit any of the crimes listed above, as defined in Section 182.

(b) "Pattern of criminal profiteering activity" means engaging in at least two incidents of criminal profiteering, as defined by this act, which meet the following requirements:

(1) Have the same or a similar purpose, result, principals, victims or methods of commission, or are otherwise interrelated by distinguishing characteristics.

(2) Are not isolated events.

(3) Were committed as a criminal activity of organized crime.

Acts which would constitute a "pattern of criminal profiteering activity" may not be used by a prosecuting agency to seek the remedies provided by this chapter unless the underlying offense occurred after the effective date of this chapter and the prior act occurred within 10 years, excluding any period of imprisonment, of the commission of the underlying offense. A prior act may not be used by a prosecuting agency to seek remedies provided by this chapter if a prosecution for that act resulted in an acquittal.

(c) "Prosecuting agency" means the Attorney General or the district attorney of any county.

(d) "Organized crime" means crime which is of a conspiratorial

and (1) organized nature and which seeks to supply illegal goods and services such as narcotics, prostitution, loan sharking, and gambling, or, (2) through planning and coordination of individual efforts, to conduct the illegal activities of arson for profit, hijacking, insurance fraud, smuggling, operating vehicle theft rings, or systematically encumbering the assets of a business for the purpose of defrauding creditors.

(e) "Underlying offense" means an offense enumerated in subdivision (a) for which the defendant is being prosecuted.

SEC. 2. Section 186.2 of the Penal Code is amended to read:

186.2. For purposes of the application of this chapter, the following definitions shall govern:

(a) "Criminal profiteering activity" means any act committed or attempted or any threat made for financial gain or advantage, which act or threat may be charged as a crime under any of the following sections:

(1) Arson, as defined in Section 451.

(2) Bribery, as defined in Sections 67, 68, and 69.

(3) Child pornography or exploitation, as defined in subdivision (b) of Section 311.2, or Section 311.3 or 311.4, which may be prosecuted as a felony.

(4) Felonious assault, as defined in Section 245.

(5) Embezzlement, as defined in Sections 424 and 503.

(6) Extortion, as defined in Section 518.

(7) Forgery, as defined in Section 470.

(8) Gambling, as defined in Sections 337a to 337f, inclusive, and Section 337i, except the activities of a person who participates solely as an individual bettor.

(9) Kidnapping, as defined in Section 207.

(10) Mayhem, as defined in Section 203.

(11) Murder, as defined in Section 187.

(12) Pimping and pandering, as defined in Section 266.

(13) Receiving stolen property, as defined in Section 496.

(14) Robbery, as defined in Section 211.

(15) Solicitation of crimes, as defined in Section 653f.

(16) Grand theft, as defined in Section 487.

(17) Trafficking in controlled substances, as defined in Sections 11351, 11352, and 11353 of the Health and Safety Code.

(18) Violation of the laws governing corporate securities, as defined in Section 25541 of the Corporations Code.

(19) Any of the offenses contained in Chapter 7.5 (commencing with Section 311) of Title 9, relating to obscene matter, or in Chapter 7.6 (commencing with Section 313) of Title 9, relating to harmful matter which may be prosecuted as a felony.

(20) Presentation of a false or fraudulent claim, as defined in Section 556 of the Insurance Code.

(21) Conspiracy to commit any of the crimes listed above, as defined in Section 182.

(b) "Pattern of criminal profiteering activity" means engaging in

at least two incidents of criminal profiteering, as defined by this act, which meet the following requirements:

(1) Have the same or a similar purpose, result, principals, victims or methods of commission, or are otherwise interrelated by distinguishing characteristics.

(2) Are not isolated events.

(3) Were committed as a criminal activity of organized crime.

Acts which would constitute a "pattern of criminal profiteering activity" may not be used by a prosecuting agency to seek the remedies provided by this chapter unless the underlying offense occurred after the effective date of this chapter and the prior act occurred within 10 years, excluding any period of imprisonment, of the commission of the underlying offense. A prior act may not be used by a prosecuting agency to seek remedies provided by this chapter if a prosecution for that act resulted in an acquittal.

(c) "Prosecuting agency" means the Attorney General or the district attorney of any county.

(d) "Organized crime" means crime which is of a conspiratorial and (1) organized nature and which seeks to supply illegal goods and services such as narcotics, prostitution, loan sharking, gambling, and pornography or, (2) through planning and coordination of individual efforts, to conduct the illegal activities of arson for profit, hijacking, insurance fraud, smuggling, operating vehicle theft rings, or systematically encumbering the assets of a business for the purpose of defrauding creditors.

(e) "Underlying offense" means an offense enumerated in subdivision (a) for which the defendant is being prosecuted.

SEC. 3. Section 186.2 of the Penal Code is amended to read:

186.2. For purposes of the application of this chapter, the following definitions shall govern:

(a) "Criminal profiteering activity" means any act committed or attempted or any threat made for financial gain or advantage, which act or threat may be charged as a crime under any of the following sections:

(1) Arson, as defined in Section 451.

(2) Bribery, as defined in Sections 67, 68, and 69.

(3) Felonious assault, as defined in Section 245.

(4) Embezzlement, as defined in Sections 424 and 503.

(5) Extortion, as defined in Section 518.

(6) Forgery, as defined in Section 470.

(7) Gambling, as defined in Sections 337a to 337f, inclusive, and Section 337i, except the activities of a person who participates solely as an individual bettor.

(8) Kidnapping, as defined in Section 207.

(9) Mayhem, as defined in Section 203.

(10) Murder, as defined in Section 187.

(11) Pimping and pandering, as defined in Section 266.

(12) Receiving stolen property, as defined in Section 496.

(13) Robbery, as defined in Section 211.

(14) Solicitation of crimes, as defined in Section 653f.

(15) Grand theft, as defined in Section 487.

(16) Trafficking in controlled substances, as defined in Sections 11351, 11352, and 11353 of the Health and Safety Code.

(17) Violation of the laws governing corporate securities, as defined in Section 25541 of the Corporations Code.

(18) Presentation of a false or fraudulent claim, as defined in Section 556 of the Insurance Code.

(19) Any of the offenses contained in Chapter 7.5 (commencing with Section 311) of Title 9, relating to obscene matter, or in Chapter 7.6 (commencing with Section 313) of Title 9, relating to harmful matter which may be prosecuted as a felony.

(20) Conviction under Section 1962 of Title 18 or Section 841 or 848 of Title 21 of the United States Code.

(21) Conspiracy to commit any of the crimes listed above, as defined in Section 182.

(b) "Pattern of criminal profiteering activity" means engaging in at least two incidents of criminal profiteering, as defined by this act, which meet the following requirements:

(1) Have the same or a similar purpose, result, principals, victims or methods of commission, or are otherwise interrelated by distinguishing characteristics.

(2) Are not isolated events.

(3) Were committed as a criminal activity of organized crime.

Acts which would constitute a "pattern of criminal profiteering activity" may not be used by a prosecuting agency to seek the remedies provided by this chapter unless the underlying offense occurred after the effective date of this chapter and the prior act occurred within 10 years, excluding any period of imprisonment, of the commission of the underlying offense. A prior act may not be used by a prosecuting agency to seek remedies provided by this chapter if a prosecution for that act resulted in an acquittal.

(c) "Prosecuting agency" means the Attorney General or the district attorney of any county.

(d) "Organized crime" means crime which is of a conspiratorial and (1) organized nature and which seeks to supply illegal goods and services such as narcotics, prostitution, loan sharking, and gambling, or, (2) through planning and coordination of individual efforts, to conduct the illegal activities of arson for profit, hijacking, insurance fraud, smuggling, operating vehicle theft rings, or systematically encumbering the assets of a business for the purpose of defrauding creditors.

(e) "Underlying offense" means an offense enumerated in subdivision (a) for which the defendant is being prosecuted.

SEC. 4. Section 186.2 of the Penal Code is amended to read:

186.2. For purposes of the application of this chapter, the following definitions shall govern:

(a) "Criminal profiteering activity" means any act committed or attempted or any threat made for financial gain or advantage, which

act or threat may be charged as a crime under any of the following sections:

(1) Arson, as defined in Section 451.

(2) Bribery, as defined in Sections 67, 68, and 69.

(3) Child pornography or exploitation, as defined in subdivision (b) of Section 311.2, or Section 311.3 or 311.4, which may be prosecuted as a felony.

(4) Felonious assault, as defined in Section 245.

(5) Embezzlement, as defined in Sections 424 and 503.

(6) Extortion, as defined in Section 518.

(7) Forgery, as defined in Section 470.

(8) Gambling, as defined in Sections 337a to 337f, inclusive, and Section 337i, except the activities of a person who participates solely as an individual bettor.

(9) Kidnapping, as defined in Section 207.

(10) Mayhem, as defined in Section 203.

(11) Murder, as defined in Section 187.

(12) Pimping and pandering, as defined in Section 266.

(13) Receiving stolen property, as defined in Section 496.

(14) Robbery, as defined in Section 211.

(15) Solicitation of crimes, as defined in Section 653f.

(16) Grand theft, as defined in Section 487.

(17) Trafficking in controlled substances, as defined in Sections 11351, 11352, and 11353 of the Health and Safety Code.

(18) Violation of the laws governing corporate securities, as defined in Section 25541 of the Corporations Code.

(19) Any of the offenses contained in Chapter 7.5 (commencing with Section 311) of Title 9, relating to obscene matter, or in Chapter 7.6 (commencing with Section 313) of Title 9, relating to harmful matter which may be prosecuted as a felony.

(20) Conviction under Section 1962 of Title 18 or Section 841 or 848 of Title 21 of the United States Code.

(21) Presentation of a false or fraudulent claim, as defined in Section 556 of the Insurance Code.

(22) Conspiracy to commit any of the crimes listed above, as defined in Section 182.

(b) "Pattern of criminal profiteering activity" means engaging in at least two incidents of criminal profiteering, as defined by this act, which meet the following requirements:

(1) Have the same or a similar purpose, result, principals, victims or methods of commission, or are otherwise interrelated by distinguishing characteristics.

(2) Are not isolated events.

(3) Were committed as a criminal activity of organized crime.

Acts which would constitute a "pattern of criminal profiteering activity" may not be used by a prosecuting agency to seek the remedies provided by this chapter unless the underlying offense occurred after the effective date of this chapter and the prior act occurred within 10 years, excluding any period of imprisonment, of

the commission of the underlying offense. A prior act may not be used by a prosecuting agency to seek remedies provided by this chapter if a prosecution for that act resulted in an acquittal.

(c) "Prosecuting agency" means the Attorney General or the district attorney of any county.

(d) "Organized crime" means crime which is of a conspiratorial and (1) organized nature and which seeks to supply illegal goods and services such as narcotics, prostitution, loan sharking, gambling, and pornography, or, (2) through planning and coordination of individual efforts, to conduct the illegal activities of arson for profit, hijacking, insurance fraud, smuggling, operating vehicle theft rings, or systematically encumbering the assets of a business for the purpose of defrauding creditors.

(e) "Underlying offense" means an offense enumerated in subdivision (a) for which the defendant is being prosecuted.

SEC. 5. (a) Section 2 of this bill incorporates amendments to Section 186.2 of the Penal Code proposed by both this bill and SB 272. It shall only become operative if (1) both bills are enacted and become effective January 1, 1986, (2) each bill amends Section 186.2 of the Penal Code, and (3) SB 260 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 272, in which case Sections 1, 3, and 4 of this bill shall not become operative.

(b) Section 3 of this bill incorporates amendments to Section 186.2 of the Penal Code proposed by both this bill and SB 260. It shall only become operative if (1) both bills are enacted and become effective January 1, 1986, (2) each bill amends Section 186.2 of the Penal Code, (3) SB 272 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 260 in which case Sections 1, 2, and 4 of this bill shall not become operative.

(c) Section 4 of this bill incorporates amendments to Section 186.2 of the Penal Code proposed by this bill, SB 272, and SB 260. It shall only become operative if (1) all three bills are enacted and become effective January 1, 1986, (2) all three bills amend Section 186.2 of the Penal Code, and (3) this bill is enacted after SB 272 and SB 260, in which case Sections 1, 2, and 3 of this bill shall not become operative.

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 1206

An act to amend Sections 2924b, 2924c, 2924d, and 2924g of the Civil Code, relating to real property.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 29, 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. (1) Any person desiring a copy of any notice of default and of any notice of sale under any deed of trust or mortgage with power of sale upon real property, as to which deed of trust or mortgage the power of sale cannot be exercised until 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 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 trustors (or mortgagor) recited therein and the names of persons requesting copies.

(2) The mortgagee, trustee, or other person authorized to record the notice of default shall do each of the following:

(a) Within 10 days following recordation of the notice of default, deposit or cause to be deposited in the United States mail an envelope, sent by registered or certified mail with postage prepaid,

containing a copy of such notice with the recording date shown thereon, addressed to each person whose name and address are set forth in a duly recorded request therefor, directed to the address designated in the request and to each trustor or mortgagor at his last known address if different than the address specified in the deed of trust or mortgage with power of sale.

(b) At least 20 days before the date of sale, deposit or cause to be deposited in the United States mail an envelope, sent by registered or certified mail with postage prepaid, containing a copy of the notice of the time and place of sale, addressed to each person whose name and address are set forth in a duly recorded request therefor, directed to the address designated in the request and to each trustor or mortgagor at his last known address if different than the address specified in the deed of trust or mortgage with power of sale.

(c) As used in paragraphs (a) and (b), the "last known address" of each trustor or mortgagor means the last business or residence address actually known by the mortgagee, beneficiary, trustee, or other person authorized to record the notice of default. The beneficiary shall inform the trustee of the trustor's last address actually known by the beneficiary. However, the trustee shall incur no liability for failing to send any notice to the last address unless the trustee has actual knowledge of it.

(3) The mortgagee, trustee, or other person authorized to record the notice of default shall do the following:

(a) Within one month following recordation of the notice of default, deposit or cause to be deposited in the United States mail an envelope, sent by registered or certified mail with postage prepaid, containing a copy of such notice with the recording date shown thereon, addressed to each person set forth in paragraph (b) of subdivision (3), provided that the estate or interest of any person entitled to receive notice under this subdivision is acquired by an instrument sufficient to impart constructive notice of 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.

(b) The persons to whom notice shall be mailed under this subdivision are:

(A) The successor in interest, as of the recording date of the notice of default, of the estate or interest or any portion thereof of the trustor or mortgagor of the deed of trust or mortgage being foreclosed.

(B) The beneficiary or mortgagee of any deed of trust or mortgage recorded subsequent to the deed of trust or mortgage

being foreclosed, or recorded prior to or concurrently with 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) above, as of the recording date of the notice of default.

(D) The vendee of any contract of sale, or the lessee of any lease, of the estate or interest being foreclosed which is recorded subsequent to the deed of trust or mortgage being foreclosed, or recorded prior to or concurrently with 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.

(c) At least 20 days before the date of sale, deposit or cause to be deposited in the United States mail, an envelope, sent by registered or certified mail with postage prepaid, containing a copy of the notice of the time and place of sale addressed to each person to whom a copy of the notice of default is to be mailed as provided in paragraphs (a) and (b).

(d) The mailing of notices in the manner set forth in paragraph (a) shall not impose upon any licensed attorney, agent, or employee of any person entitled to receive notices as herein set forth any duty to communicate 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.

(4) Any deed of trust or mortgage with power of sale hereafter executed upon real property may contain a request that a copy of any notice of default and a copy of any notice of sale thereunder shall be mailed to any person or party thereto at the address of 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 at the same time and in the same manner required as though a separate request therefor had been filed by each of such persons as herein authorized. If any deed of trust or mortgage with power of sale executed after September 19, 1939, except a deed of trust or mortgage of any of the classes excepted from the provisions of Section 2924 does not contain a request of the trustor or mortgagor for special notice at the address of such person given therein or does contain such a request but no address of the person is given therein and if no request for special notice by the trustor or mortgagor in substantially the form set forth in this section has subsequently been recorded, a copy of the notice of default shall be published once a week for at least four weeks in a newspaper of

general circulation in the county in which the property is situated, the 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 trustor or mortgagor within that 10 days or at any time before publication is completed.

(5) Any person required to mail a copy of a notice of default or notice of sale to each trustor or mortgagor pursuant to subdivision (2) or (3) 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 trustor or mortgagor at the same address to which the notice is sent by registered or certified mail pursuant to subdivision (2) or (3). 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.

(6) 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 2924c of the Civil Code is amended to read:

2924c. (a) (1) Whenever all or a portion of the principal sum of any obligation secured by deed of trust or mortgage on real property hereafter executed has, prior to the maturity date fixed in such obligation, become due or been declared due by reason of default in payment of interest or of any installment of principal, or by reason of failure of trustor or mortgagor to pay, in accordance with the terms of such obligation or of such deed of trust or mortgage, taxes, assessments, premiums for insurance or advances made by beneficiary or mortgagee in accordance with the terms of such obligation or of such deed of trust or mortgage, the trustor or mortgagor or his successor in interest in the mortgaged or trust property or any part thereof, or any beneficiary under a subordinate deed of trust or any other person having a subordinate lien or encumbrance of record thereon, at any time within the period specified in subdivision (e), if the power of sale therein is to be exercised, or, otherwise at any time prior to entry of the decree of foreclosure; may pay to the beneficiary or the mortgagee or their successors in interest, respectively, the entire amount then due under the terms of such deed of trust or mortgage and the obligation secured thereby (including reasonable costs and expenses, subject to the provisions of subdivision (c) of this section, which are actually

incurred in enforcing the terms of such obligation, deed of trust or mortgage, and trustee's or attorney's fees, subject to the provisions of subdivision (d) of this section), other than such portion of principal as would not then be due had no default occurred, and thereby cure the default theretofore existing, and thereupon, all proceedings theretofore had or instituted shall be dismissed or discontinued and the obligation and deed of trust or mortgage shall be reinstated and shall be and remain in force and effect, the same as if no such acceleration had occurred. The provisions of this section shall not apply to bonds or other evidences of indebtedness authorized or permitted to be issued by the Commissioner of Corporations or made by a public utility subject to the provisions of the Public Utilities Code.

(2) If the trustor, mortgagor, or other person authorized to cure the default pursuant to this subdivision does cure the default, that person may request the beneficiary or the mortgagee or their successors in interest to cause to be executed and recorded a notice of rescission which rescinds the declaration of default and demand for sale and upon receipt of a written request the beneficiary or mortgagee or their successors in interest shall cause to be executed and recorded a notice of rescission. The request to execute and record a notice of rescission shall be directed to the person whose name and address is set forth in the notice required by subdivision (b). The beneficiary, or the mortgagee or their successors in interest, shall cause the notice of rescission to be recorded within 30 days of the receipt of the written request.

No charge, except for the recording fee, shall be made for the execution and recordation of the notice which rescinds the declaration of default and demand for sale.

(b) (1) The notice, of any default described in this section, recorded pursuant to Section 2924, and mailed to any person pursuant to Section 2924b, shall begin with the following statement, printed or typed thereon:

"IMPORTANT NOTICE [14-point boldface type if printed or in capital letters if typed]

IF YOUR PROPERTY IS IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR PAYMENTS, IT MAY BE SOLD WITHOUT ANY COURT ACTION, [14-point boldface type if printed or in capital letters if typed] and you may have the legal right to bring your account in good standing by paying all of your past due payments plus permitted costs and expenses within the time permitted by law for reinstatement of your account, which is normally five business days prior to the date set for the sale of your property. No sale date may be set until three months from the date this notice of default may be recorded (which date of recordation appears on this notice).

This amount is _____ as of _____ ,

(Date)

and will increase until your account becomes current. You may not have to pay the entire unpaid portion of your account, even though full payment was demanded, but you must pay the amount stated above. However, you and your beneficiary or mortgagee may mutually agree in writing prior to the time the notice of sale is posted (which may not be earlier than the end of the three-month period stated above) to, among other things, (1) provide additional time in which to cure the default by transfer of the property or otherwise; or (2) establish a schedule of payments in order to cure your default; or both (1) and (2).

Following the expiration of the time period referred to in the first paragraph of this notice, unless the obligation being foreclosed upon or a separate written agreement between you and your creditor permits a longer period, you have only the legal right to stop the sale of your property by paying the entire amount demanded by your creditor.

To find out the amount you must pay, or to arrange for payment to stop the foreclosure, or if your property is in foreclosure for any other reason, contact:

_____

(Name of beneficiary or mortgagee)

_____

(Mailing address)

_____

(Telephone)

If you have any questions, you should contact a lawyer or the government agency which may have insured your loan.

Notwithstanding the fact that your property is in foreclosure, you may offer your property for sale, provided the sale is concluded prior to the conclusion of the foreclosure.

Remember, YOU MAY LOSE LEGAL RIGHTS IF YOU DO NOT TAKE PROMPT ACTION. [14-point boldface type if printed or in capital letters if typed]"

Unless otherwise specified, the notice, if printed, shall appear in at least 12-point boldface type.

If the obligation secured by the deed of trust or mortgage is a contract or agreement described in paragraph (1) or paragraph (4) of subdivision (a) of Section 1632, the notice required herein shall be in Spanish if the trustor requested a Spanish language translation of the contract or agreement pursuant to Section 1632. If the obligation secured by the deed of trust or mortgage is contained in a home improvement contract, as defined in Sections 7151.2 and 7159 of the Business and Professions Code, which is subject to the provisions of Title 2 (commencing with Section 1801), the seller shall specify on

the contract whether or not the contract was principally negotiated in Spanish and if the contract was principally negotiated in Spanish, the notice required herein shall be in Spanish. No assignee of such contract or person authorized to record the notice of default shall incur any obligation or liability for failing to mail a notice in Spanish unless Spanish is specified in the contract or such assignee or person has actual knowledge that the secured obligation was principally negotiated in Spanish. Unless specified in writing to the contrary, a copy of the notice required by subdivision (3) of Section 2924b shall be in English.

(2) Any failure to comply with the provisions of this subdivision shall not affect the validity of a sale in favor of a bona fide purchaser or the rights of an encumbrancer for value and without notice.

(c) Costs and expenses which may be charged pursuant to Sections 2924 to 2924i, inclusive, shall be limited to the costs incurred for recording, mailing, publishing, and posting notices required by Section 2924 to 2924i, inclusive, postponement upon the written request of the trustor pursuant to Section 2924g made to either the beneficiary or trustee not to exceed fifty dollars ($50) per postponement and a fee for a trustee's sale guarantee or, in the event of judicial foreclosure, a litigation guarantee.

(d) Trustee's or attorney's fees which may be charged pursuant to subdivision (a), or until the notice of sale is deposited in the mail to the trustor as provided in Section 2924b, if the sale is by power of sale contained in the deed of trust or mortgage, or, otherwise at any time prior to the decree of foreclosure, are hereby authorized to be in an amount which does not exceed two hundred dollars ($200) with respect to any portion of the unpaid principal sum secured which is fifty thousand dollars ($50,000) or less, plus one-half of 1 percent of the unpaid principal sum secured exceeding fifty thousand dollars ($50,000) up to and including one hundred fifty thousand dollars ($150,000), plus one-quarter of 1 percent of any portion of the unpaid principal sum secured exceeding one hundred fifty thousand dollars ($150,000) up to and including five hundred thousand dollars ($500,000), plus one-eighth of 1 percent of any portion of the unpaid principal sum secured exceeding five hundred thousand dollars ($500,000). Any charge for trustee's or attorney's fees authorized by this subdivision shall be conclusively presumed to be lawful and valid where such charge does not exceed the amounts authorized herein.

(e) Reinstatement of a monetary default under the terms of an obligation secured by a deed of trust, or mortgage may be made at any time within the period commencing with the date of recordation of the notice of default until five business days prior to the date of sale set forth in the initial recorded notice of sale.

In the event the sale does not take place on the date set forth in the initial recorded notice of sale or a subsequent recorded notice of sale is required to be given, the right of reinstatement shall be revived as of the date of recordation of the subsequent notice of sale, and shall continue from such date until five business days prior to the

date of sale set forth in the subsequently recorded notice of sale.

In the event the date of sale is postponed on the date of sale set forth in either an initial or any subsequent notice of sale, or is postponed on the date declared for sale at an immediately preceding postponement of sale, and, the postponement is for a period which exceeds five business days from the date set forth in the notice of sale, or declared at the time of postponement, then the right of reinstatement is revived as of the date of postponement and shall continue from such date until five business days prior to the date of sale declared at the time of the postponement.

Nothing contained herein shall give rise to a right of reinstatement during the period of five business days prior to the date of sale, whether the date of sale is noticed in a notice of sale or declared at a postponement of sale.

Pursuant to the terms of this subdivision, no beneficiary, trustee, mortgagee, their agents or successors shall be liable in any manner to a trustor, mortgagor, their agents or successors for the failure to allow a reinstatement of the obligation secured by a deed of trust or mortgage during the period of five business days prior to the sale of the security property, and no such right of reinstatement during this period is created hereby. Any right of reinstatement created hereby is terminated five business days prior to the date of sale set forth in the initial date of sale, and is revived only as prescribed herein and only as of the date set forth herein.

SEC. 3. Section 2924d of the Civil Code is amended to read:

2924d. (a) Commencing with the date that the notice of sale is deposited in the mail, as provided in Section 2924b, and until the property is sold pursuant to the power of sale contained in the mortgage or deed of trust, a beneficiary, trustee, mortgagee, or his or her agent or successor in interest, may demand and receive from a trustor, mortgagor, or his or her agent or successor in interest, or any beneficiary under a subordinate deed of trust, or any other person having a subordinate lien or encumbrance of record those reasonable costs and expenses, to the extent allowed by subdivision (c) of Section 2924c, which are actually incurred in enforcing the terms of the obligation and trustee's or attorney's fees which are hereby authorized to be in an amount which does not exceed three hundred dollars ($300) with respect to any portion of the unpaid principal sum secured which is fifty thousand dollars ($50,000) or less, plus 1 percent of any portion of the unpaid principal sum secured exceeding fifty thousand dollars ($50,000) up to and including one hundred fifty thousand dollars ($150,000), plus one-half of 1 percent of any portion of the unpaid principal sum secured exceeding one hundred fifty thousand dollars ($150,000) up to and including five hundred thousand dollars ($500,000), plus one-quarter of 1 percent of any portion of the unpaid principal sum secured exceeding five hundred thousand dollars ($500,000). Any charge for trustee's or attorney's fees authorized by this subdivision shall be conclusively presumed to be lawful and valid where such

charge does not exceed the amounts authorized herein. Any charge for trustee's or attorney's fees made pursuant to the provisions of this subdivision shall be in lieu of and not in addition to those charges authorized by subdivision (d) of Section 2924c.

(b) Upon the sale of property pursuant to a power of sale, a trustee, or his or her agent or successor in interest, may demand and receive from a beneficiary, or his or her agent or successor in interest, or may deduct from the proceeds of the sale, those reasonable costs and expenses, to the extent allowed by subdivision (c) of Section 2924c, which are actually incurred in enforcing the terms of the obligation and trustee's or attorney's fees which are hereby authorized to be in an amount which does not exceed three hundred dollars ($300) or one percent of the unpaid principal sum secured, whichever is greater. Any charge for trustee's or attorney's fees authorized by this subdivision shall be conclusively presumed to be lawful and valid where such charge does not exceed the amount authorized herein. Any charges for trustee's or attorney's fees made pursuant to the provisions of this subdivision shall be in lieu of and not in addition to those charges authorized by subdivision (a) of this section and subdivision (d) of Section 2924c.

(c) (1) No person shall pay or offer to pay or collect any rebate or kickback for the referral of business involving the performance of any act required by this article.

(2) Any person who violates this subdivision shall be liable to the trustor for three times the amount of any rebate or kickback, plus reasonable attorney's fees and costs, in addition to any other remedies provided by law.

(3) No violation of this subdivision shall affect the validity of a sale in favor of a bona fide purchaser or the rights of an encumbrancer for value without notice.

(d) It shall not be unlawful for a trustee to pay or offer to pay a fee to an agent or subagent of the trustee for work performed by the agent or subagent in discharging the trustee's obligations under the terms of the mortgage or deed of trust.

(e) When a court issues a decree of foreclosure, it shall have discretion to award attorney's fees, costs, and expenses as are reasonable, if provided for in the note, deed of trust, or mortgage, pursuant to Section 580c of the Code of Civil Procedure.

SEC. 4. Section 2924d of the Civil Code is amended to read:

2924d. (a) Commencing with the date that the notice of sale is deposited in the mail, as provided in Section 2924b, and until the property is sold pursuant to the power of sale contained in the mortgage or deed of trust, a beneficiary, trustee, mortgagee, or his or her agent or successor in interest, may demand and receive from a trustor, mortgagor, or his or her agent or successor in interest, or any beneficiary under a subordinate deed of trust, or any other person having a subordinate lien or encumbrance of record those reasonable costs and expenses, to the extent allowed by subdivision (c) of Section 2924c, which are actually incurred in enforcing the

terms of the obligation and trustee's or attorney's fees which are hereby authorized to be in an amount which does not exceed three hundred dollars ($300) with respect to any portion of the unpaid principal sum secured which is fifty thousand dollars ($50,000) or less, plus 1 percent of any portion of the unpaid principal sum secured exceeding fifty thousand dollars ($50,000) up to and including one hundred fifty thousand dollars ($150,000), plus one-half of 1 percent of any portion of the unpaid principal sum secured exceeding one hundred fifty thousand dollars ($150,000) up to and including five hundred thousand dollars ($500,000), plus one-quarter of 1 percent of any portion of the unpaid principal sum secured exceeding five hundred thousand dollars ($500,000). Any charge for trustee's or attorney's fees authorized by this subdivision shall be conclusively presumed to be lawful and valid where such charge does not exceed the amounts authorized herein. Any charge for trustee's or attorney's fees made pursuant to the provisions of this subdivision shall be in lieu of and not in addition to those charges authorized by subdivision (d) of Section 2924c.

(b) Upon the sale of property pursuant to a power of sale, a trustee, or his or her agent or successor in interest, may demand and receive from a beneficiary, or his or her agent or successor in interest, or may deduct from the proceeds of the sale, those reasonable costs and expenses, to the extent allowed by subdivision (c) of Section 2924c, which are actually incurred in enforcing the terms of the obligation and trustee's or attorney's fees which are hereby authorized to be in an amount which does not exceed three hundred dollars ($300) or one percent of the unpaid principal sum secured, whichever is greater. Any charge for trustee's or attorney's fees authorized by this subdivision shall be conclusively presumed to be lawful and valid where such charge does not exceed the amount authorized herein. Any charges for trustee's or attorney's fees made pursuant to the provisions of this subdivision shall be in lieu of and not in addition to those charges authorized by subdivision (a) of this section and subdivision (d) of Section 2924c.

(c) (1) No person shall pay or offer to pay or collect any rebate or kickback for the referral of business involving the performance of any act required by this article.

(2) Any person who violates this subdivision shall be liable to the trustor for three times the amount of any rebate or kickback, plus reasonable attorney's fees and costs, in addition to any other remedies provided by law.

(3) No violation of this subdivision shall affect the validity of a sale in favor of a bona fide purchaser or the rights of an encumbrancer for value without notice.

(d) It shall not be unlawful for a trustee to pay or offer to pay a fee to an agent or subagent of the trustee for work performed by the agent or subagent in discharging the trustee's obligations under the terms of the deed of trust. Any payment of a fee by a trustee to an agent or subagent of the trustee for work performed by the agent or

subagent in discharging the trustee's obligations under the terms of the deed of trust shall be conclusively presumed to be lawful and valid if the fee, when combined with other fees of the trustee, does not exceed in the aggregate the trustee's fee authorized by subdivision (d) of Section 2924c or subdivision (a) or (b) of this section.

(e) When a court issues a decree of foreclosure, it shall have discretion to award attorney's fees, costs, and expenses as are reasonable, if provided for in the note, deed of trust, or mortgage, pursuant to Section 580c of the Code of Civil Procedure.

SEC. 5. Section 2924g of the Civil Code is amended to read:

2924g. (a) All sales of property under the power of sale contained in any deed of trust or mortgage shall be held in the county where such property or some part thereof is situated, and shall be made at auction, to the highest bidder, between the hours of 9 a.m. and 5 p.m. on any business day, Monday through Friday.

The sale shall commence at the time and location specified in the notice of sale. Any postponement shall be announced at the time and location specified in the notice of sale for commencement of such sale or pursuant to paragraph (1) of subdivision (c) herein.

If the sale of more than one parcel of real property has been scheduled for the same time and location by the same trustee, (1) any postponement of any of the sales shall be announced at the time published in the notice of sale; (2) the first sale shall commence at the time published in the notice of sale or immediately after the announcement of any postponement; and (3) each subsequent sale shall take place as soon as possible after the preceding sale has been completed.

(b) When the property consists of several known lots or parcels they shall be sold separately unless the deed of trust or mortgage provides otherwise; or when a portion of such property is claimed by a third person, and he requires it to be sold separately, such portion may be thus sold. The trustor, if present at the sale, may also, unless the deed of trust or mortgage otherwise provides, direct the order in which property shall be sold, when such property consists of such several known lots or parcels which may be sold to advantage separately, and the trustee shall follow such direction. After sufficient property has been sold to satisfy the indebtedness no more can be sold.

If the property under power of sale is in two or more counties the public auction sale of all of the property under the power of sale may take place in any one of the counties where the property or a portion thereof is located.

(c) (1) There may be a postponement of the sale proceedings at any time prior to the completion of the sale thereof at the discretion of the trustee, upon instruction by the beneficiary to the trustee that the sale proceedings be postponed, or upon the written request of the trustor, provided the reason for the request is to permit the trustor to obtain cash sufficient to satisfy the obligation or bid at the

sale and the written request identifies the source from which the funds are being obtained. The trustor shall be entitled to make one such request for postponement and any postponement made at the request of the trustor shall be for a period not to exceed one business day.

There may be a maximum of three postponements of the sale proceedings pursuant to this subdivision. In the event that the sale proceedings are postponed three times, the scheduling of any further sale proceedings shall be preceded by the giving of a new notice of sale in the manner prescribed by Section 2924f. A postponement made upon the request of the trustor shall not be deemed a postponement for purposes of this paragraph.

(2) The trustee shall postpone the sale upon the order of any court of competent jurisdiction; or by operation of law; or by the mutual agreement, whether oral or in writing, of any trustor and any beneficiary or any mortgagor and any mortgagee. Any postponement pursuant to this paragraph shall not be a postponement for purposes of determining the maximum number of postponements permitted pursuant to this subdivision nor shall a postponement resulting from the prohibition upon a sale within seven days from the expiration of an injunction, restraining order, or stay as provided in subdivision (d) be deemed a postponement for purposes of this subdivision.

(d) The notice of each postponement and the reason therefor shall be given by public declaration by the trustee at the time and place last appointed for sale. Such a public declaration of postponement shall also set forth the new date, time, and place of sale, which place of sale shall be the same place as originally fixed by the trustee for the sale. No other notice of postponement need be given. However, upon the expiration of an injunction, restraining order, or stay from any court of competent jurisdiction which has not otherwise expressly provided in its original order or any amendment thereto, or upon expiration of a postponement arising by operation of law, the sale shall be conducted no sooner than seven days thereafter and a new notice of postponement shall be given if the sale had been scheduled to occur during that seven-day period. The trustee shall maintain records of each postponement and the reason therefor.

SEC. 6. Section 4 of this bill incorporates amendments to Section 2924d of the Civil Code proposed by both this bill and SB 930. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 2924d of the Civil Code, and (3) this bill is enacted after SB 930, in which case Section 3 of this bill shall not become operative.

SEC. 7. The provisions of Section 2 that amend paragraph (1) of subdivision (a) and paragraph (1) of subdivision (b) of, and add subdivision (e) to, Section 2924c of the Civil Code, shall apply to foreclosure proceedings commenced by the recordation of a notice of default recorded on or after January 1, 1986.

SEC. 8. The changes in subdivision (d) of Section 2924d of the Civil Code made by Section 4 do not constitute a change in, but are declaratory of, the existing law.

CHAPTER 1207

An act to amend Section 25252 of the Health and Safety Code, relating to health.

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

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

SECTION 1. Section 25252 of the Health and Safety Code is amended to read:

25252. (a) Notwithstanding Section 5328 of the Welfare and Institutions Code, and except as provided in Sections 25253 and 25254, any adult patient of a health care provider, any minor patient authorized by law to consent to medical treatment, and any patient representative shall be entitled to inspect patient records upon presenting to the health care provider a written request for those records and upon payment of reasonable clerical costs incurred in locating and making the records available. However, a patient who is a minor shall be entitled to inspect patient records pertaining only to health care of a type for which the minor is lawfully authorized to consent. A health care provider shall permit this inspection during business hours within five working days after receipt of such a written request. The inspection shall be conducted by the patient or patient's representative requesting the inspection, who may be accompanied by one other person of his or her choosing.

(b) Additionally, any patient or patient's representative shall be entitled to copies of all or any portion of the patient records which he or she has a right to inspect, upon presenting a written request to the health care provider specifying the records to be copied, together with a fee to defray the cost of copying, which shall not exceed twenty-five cents ($0.25) per page or fifty cents ($0.50) per page for records that are copied from microfilm and any additional reasonable clerical costs incurred in making the records available. The health care provider shall ensure that the copies are transmitted within 15 days after receiving the written request.

(c) Copies of X-rays or tracings derived from electrocardiography, electroencephalography, or electromyography need not be provided to the patient or patient's representative under this section, if the original X-rays or tracings are transmitted to another health care provider upon written request of the patient or patient's representative and within 15 days after receipt of such a request. Any such request shall specify the name and address of the

health care provider to whom the records are to be delivered. All reasonable costs, not exceeding actual costs, incurred by a health care provider in providing copies pursuant to this subdivision may be charged to the patient or representative requesting the copies.

(d) Nothing in this section shall be construed to preclude a health care provider from requiring reasonable verification of identity prior to permitting inspection or copying of patient records, provided this requirement is not used oppressively or discriminatorily to frustrate or delay compliance with this section. Nothing in this chapter shall be deemed to supersede any rights which a patient or representative might otherwise have or exercise under Section 1158 of the Evidence Code or any other provision of law. Nothing in this chapter shall require a health care provider to retain records longer than required by applicable statutes or administrative regulations.

(e) Nothing in this chapter shall be construed to render a health care provider liable for the quality of his or her records or the copies provided in excess of existing law and regulations adopted pursuant thereto with respect to the quality of medical records. A health care provider shall not be liable to the patient or any other person for any consequences which result from disclosure of patient records as required by this chapter. A health care provider shall not discriminate against classes or categories of providers in the transmittal of X-rays or other patient records, or copies of these X-rays or records, to other providers as authorized by this section.

Every health care provider shall adopt policies and establish procedures for the uniform transmittal of X-rays and other patient records that effectively prevent the discrimination described in this subdivision. A health care provider may establish reasonable conditions, including a reasonable deposit fee, to ensure the return of original X-rays transmitted to another health care provider, provided the conditions do not discriminate on the basis of, or in a manner related to, the license of the provider to which the X-rays are transmitted.

(f) Any health care provider described in paragraphs (4) to (10), inclusive, of subdivision (a) of Section 25251 who willfully violates this chapter is guilty of unprofessional conduct. Any health care provider described in paragraphs (1) to (3), inclusive, of subdivision (a) of Section 25251 that willfully violates this chapter is guilty of an infraction punishable by a fine of not more than one hundred dollars ($100). The state agency, board or commission which issued the health care provider's professional or institutional license shall consider a violation as grounds for disciplinary action with respect to the licensure, including suspension or revocation of the license or certificate.

SEC. 2. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because self-financing authority is provided in Sections 1177, 1473, and 25252 of the Health and Safety Code to cover costs that may be incurred in carrying on any program

or performing any service required to be carried on or performed by this act and because the only other costs which may be incurred by a local agency 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 1208

An act to amend Sections 7397 and 7398.5 of the Business and Professions Code, relating to cosmetology.

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

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

SECTION 1. Section 7397 of the Business and Professions Code is amended to read:

7397. (a) Every school shall keep a daily record of the attendance of each student and the time devoted by each student to the various practices or branches of cosmetology and electrology. It shall establish grades, and hold examinations before issuing diplomas.

(b) No student shall be required or permitted to attend more than eight hours of instruction or practice, or any combination thereof, in any one day, except that a student may be permitted to complete a service in process, but not to exceed 30 consecutive minutes.

(c) The board shall maintain, in a manner that is accessible, as well as cost and labor efficient, a current record of course credit received by each student, which shall be compiled from records supplied to the board by each school when a student enrolls or reenrolls in, withdraws from, or completes a given course of study.

SEC. 2. Section 7398.5 of the Business and Professions Code is amended to read:

7398.5. (a) Every school shall fix its tuition at such an amount as will enable it to furnish without further charge to the student all cosmetics, materials, and supplies used on the public and in classes. This does not include books and instruments.

(b) Notwithstanding any other provision of law, no student withdrawing from or completing a course of study at a school of cosmetology or electrology shall have a right to copies of any student records relating to him or her maintained by the school, until full payment has been made by the student of all fees and charges due to the school which are specified in the contract between the student and the school.

(c) In accordance with subdivision (b), a school of cosmetology or electrology shall include a disclosure statement, in 12-point boldface type, on the contract between the student and the school which

reads as follows:

COPIES OF STUDENT RECORDS SHALL NOT BE PROVIDED UNTIL ALL FEES AND CHARGES SPECIFIED IN THIS CONTRACT ARE PAID IN FULL (Business and Professions Code Section 7398.5(b)). (NOTE: WITHOUT PROPER RECORDS, ONE CANNOT QUALIFY FOR THE STATE EXAMINATION FOR LICENSURE (Business and Professions Code Section 7370)).

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 1209

An act to amend Section 11122 of the Health and Safety Code, relating to controlled substances.

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

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

SECTION 1. Section 11122 of the Health and Safety Code is amended to read:

11122. (a) A controlled substance shall be stored only in a warehouse which is licensed by the Board of Pharmacy.

(b) This section shall not apply to any of the following:

(1) Any pharmacy or other person who is licensed or authorized by this state to sell or furnish the controlled substance upon the written prescription of a physician, dentist, podiatrist, or veterinarian, or pharmacist acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1, or registered nurse acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1, or physician's assistant acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1.

(2) Any physician, dentist, podiatrist, or veterinarian, or pharmacist acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1, or registered nurse acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1, or physician's assistant acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 who possesses a

controlled substance for administration to his or her patients.

(3) Any licensed laboratory in this state which is authorized to receive and use the controlled substance.

(4) Any licensed hospital in this state.

(5) Any person who obtains the controlled substance upon the prescription of a physician, dentist, podiatrist, or veterinarian, or pharmacist acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1, or registered nurse acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1, or physician's assistant acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 for his or her personal use.

(6) Any agent or employee of any licensed manufacturer or wholesaler who possesses the controlled substance for display purposes or furnishes controlled substances as a sample at no cost to a licensed pharmacist, physician, dentist, podiatrist, or veterinarian, or registered nurse acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1, or physician's assistant acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1.

(7) A manufacturer licensed pursuant to Section 26685 of this code or Section 4084 or 4084.6 of the Business and Professions Code.

(8) A wholesaler licensed pursuant to Section 4084 or 4084.6 of the Business and Professions Code.

(9) Any emergency medical technician-II, emergency medical technician-paramedic, or mobile intensive care nurse, certified or authorized pursuant to Division 2.5 (commencing with Section 1797) to provide prehospital limited advanced life support or advanced life support as part of a local emergency medical services system, who, in a secure manner and according to policies and procedures established by the local emergency medical services agency as part of the local emergency medical services plan, transports, stores, or administers controlled substances acting within his or her scope of practice.

(10) Any emergency medical response or transport unit which has been approved by the local emergency medical services agency and is operating as part of the local emergency medical services system according to policies and procedures established by the local medical services agency for the emergency medical treatment and transport of patients, upon which, controlled substances authorized by the scope of practice of the prehospital personnel approved to staff the unit are stored or transported in a secure manner according to policies and procedures established by the local emergency medical services agency.

SEC. 2. Commencing January 1, 1987, the Director of the Emergency Medical Services Authority shall investigate and

determine if the storage and transportation of controlled substances has increased the attempted theft of these substances or endangered the personal safety of EMS personnel, and shall report the results of this investigation to the Legislature by February 1, 1987.

CHAPTER 1210

An act to add Article 6 (commencing with Section 54750) to Chapter 9 of Part 29 of the Education Code, relating to college admission tests, and making an appropriation therefor.

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

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

SECTION 1. Article 6 (commencing with Section 54750) is added to Chapter 9 of Part 29 of the Education Code, to read:

Article 6. College Admissions Test Preparation Pilot Projects

54750. The Legislature hereby finds and declares that economically disadvantaged and ethnic minority students remain seriously underrepresented in admissions to the California State University and the University of California, and the independent colleges and universities of the State of California, and that efforts to promote the increased eligibility of these students to these institutions must begin at the earliest opportunity for intervention during the secondary level of education. The Legislature also finds and declares that research conducted by the California Postsecondary Education Commission has identified, among other barriers, that the lack of test taking opportunities in school districts maintaining high schools with high populations of economically disadvantaged and ethnic minority students and the failure of these students to participate in meaningful numbers during test-taking opportunities are contributors to the low admissions levels.

It is the intent of the Legislature in enacting this article to enable these students to take advantage of the development and implementation of effective innovative methods and test preparation activities by test sponsors designed to increase the number of students taking these college admissions tests and to improve their test-taking skills. It is not the intent of the Legislature that this pilot project be designed exclusively for the purpose of preparing students to take a particular test.

54751. (a) The Superintendent of Public Instruction shall establish college admissions test preparation pilot projects for eligible school districts in accordance with the requirements of this article. The goals of the pilot projects shall include all of the

following:

(1) The identification of students from groups underrepresented in admissions to public postsecondary educational institutions eligible to participate in the pilot projects and the development of methods to encourage the participation of these students in the pilot project and the taking of college admissions tests required for admission to public four-year postsecondary educational institutions.

(2) The promotion of test programs, test preparation programs, and related counseling and guidance services and curriculum improvements for participating school districts with low enrollments of students into these institutions.

(3) The identification of methods to increase the direct participation of test sponsors in participating school districts to increase student participation and performance in college admissions tests.

(4) The development of model test preparation programs for dissemination to other school districts in the state.

(b) The Superintendent of Public Instruction shall select eligible school districts from school districts submitting applications for participation in college admissions test preparation pilot projects.

The superintendent shall approve college admissions test preparation pilot project grants for school districts which meet at least three of the following criteria:

(1) The applicant has low university enrollment rates.

(2) The applicant has a high concentration of students enrolled in grades 9 and 10 from groups which are underrepresented in admissions to postsecondary educational institutions.

(3) The applicant has historically had a low percentage of college admissions test takers.

(4) The applicant demonstrates its ability to meet the objectives of the pilot projects as demonstrated by the commitment of school district funds or substantial in-kind services to support the pilot project.

(5) The applicant assures that the activities and materials developed under the pilot project are available to all students in the school district.

(c) Pilot projects approved under this section shall be awarded for a three-year grant period. The superintendent may terminate any approved project if it is determined that the pilot project is no longer meeting the requirements of this article. The superintendent shall ensure that approved pilot projects are, insofar as qualifying proposals are submitted, equitably distributed among school districts differing in location and size.

54751.1. Priority in the selection of school districts for funding shall be given for either of the following, aimed at increasing participation of underrepresented students in postsecondary education:

(a) Pilot projects articulated with a program of secondary school counseling pursuant to Section 84 of Chapter 498 of the Statutes of

1983 having the potential for increasing college aspirations and preparation of underrepresented students.

(b) Pilot projects which include school or district educational activities having the potential for increasing academic preparation of underrepresented students.

54752. It is the intent of the Legislature that the governing board of each school district operating an approved college admissions test preparation pilot project shall enter into agreements with college admissions test sponsors for the purpose of establishing and maintaining test preparation activities for the benefit of students, teachers, counselors, and parents. The plan for test preparation activities shall be adopted at a public meeting of the governing board and shall include, but need not necessarily be limited to, all of the following:

(a) Activities and materials for students designed to enable them to comprehend the requirements of college admissions tests, including a review of nonsecure test content, a review of test-taking strategies, the computation of raw scores, the interpretation of test scores, and special preparations, as appropriate.

(b) Activities and materials for teachers and counselors designed to facilitate their assistance of students to learn from the testing experience, including an evaluation of the test component contents, the review of test strategies, study designs for developing appropriate test preparation activities, and guidelines for the interpretation of group data and test results.

(c) Activities and materials for parents designed to assist and encourage their involvement with the test-taking and college decisionmaking experience of their children, including clear and easily understood descriptions of the role, uses, the interpretation of college admissions tests, and information on the details and requirements of the examination process and college and university admissions application procedures.

(d) Materials for students, parents, teachers, and counselors concerning the nature, registration and administration procedures, testing dates and sites, costs, and fee waiver policies for each of the commonly accepted college admissions tests.

54753. The Superintendent of Public Instruction shall submit a report to the Legislature on or before January 1, 1988, regarding the implementation and effectiveness of college admissions test preparation pilot projects. The report shall include data on all of the following:

(a) Any increased student participation in college admissions test taking in schools operating approved pilot projects.

(b) Any improvements in student performance on each of the commonly accepted college admissions tests, including performance on subtests.

(c) The levels of support for these projects made by test sponsors.

54753.1. Funds shall be awarded to school districts by the State Department of Education no later than February 28, 1986. Funding

to participant districts with exemplary multiyear test preparation pilot projects shall not exceed one hundred thousand dollars ($100,000).

SEC. 2. The sum of three hundred thousand dollars ($300,000) is hereby reappropriated from Item 6100-107-001 of the Budget Act of 1985 to the Superintendent of Public Instruction for purposes of establishing college admissions test preparation pilot projects pursuant to Article 6 (commencing with Section 54750) of Chapter 9 of Part 29 of the Education Code.

It is the intent of the Legislature that funding at equivalent levels in subsequent fiscal years shall be included in the Budget Act for each fiscal year.

SEC. 3. Funds appropriated for the purposes of this act shall not be included within "the total amount of money allocated for public education in California," as that term is used in Section 8880.1 of the Government Code, as added by the California State Lottery Act of 1984.

CHAPTER 1211

An act to amend Sections 2627.5, 2627.7, 2658, 2675, 2770, and 2777 of, and to add Section 2735.1 to, the Unemployment Insurance Code, relating to unemployment insurance, and making an appropriation therefor.

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

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

SECTION 1. Section 2627.5 of the Unemployment Insurance Code is amended to read:

2627.5. (a) If an individual, pursuant to orders of his or her physician, is confined in a hospital for at least one day, any unexpired full days of the waiting period required by subdivision (b) of Section 2627 shall be waived. This subdivision shall apply to an individual's confinement in a nursing home as defined by subparagraph (B) of paragraph (4) of subdivision (c), but only if immediately prior to such confinement he or she was confined in a hospital (other than a nursing home) for not less than 15 consecutive days pursuant to the orders of his or her physician or confined to such nursing home by order of a physician, where such nursing home is used where an individual's disability requires immediate hospitalization and a bed is unavailable in a hospital (other than a nursing home).

(b) In addition to the certificate required by Section 2706.1, the waiver provided by this section shall be supported by a certificate stating the day when an individual's confinement in a hospital commenced, and stating that the confinement was 24 hours or more

in duration or that a full day's rate was charged and signed by the registrar or other appropriate official of the hospital. However, if it is not practical to obtain the certificate described in this subdivision, the department may use any other means it deems reasonable to obtain verification of the information required by this subdivision.

(c) As used in this section:

(1) "Confined" means a registered bed patient.

(2) "Day" means any 24-hour period of time during which the claimant is in a hospital, or any 24-hour period or any part thereof for which a hospital charges a patient a full day's rate.

(3) "Full day's rate" means the regular and customary daily charge for board and room by the hospital.

(4) "Hospital" means:

(A) Within the State of California, any institution which is:

(i) Licensed by the State Department of Health Services as a general hospital, maternity hospital, tuberculosis hospital or sanitorium or specialized hospital; or

(ii) Operated as a hospital but exempt from licensing by the State Department of Health Services under subdivision (a) of Section 1270 of the Health and Safety Code; or

(iii) Operated as a mental hospital licensed by the State Department of Health Services which is primarily intended for, staffed and equipped to provide for the reception, care, diagnosis and treatment of acute mental and nervous diseases.

(B) Within the states of the United States, any institution operated as a "nursing home" which is:

(i) An extended care facility as defined in subsection (j) of Section 1395x of Title 42 of the United States Code; or

(ii) Conducted by and for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend upon prayer or spiritual means for healing in the practice of the religion of such church or denomination.

(C) Outside the State of California, any institution in other states or foreign countries, or in the territories or possessions of any country which is:

(i) Licensed as a hospital pursuant to the statutes or laws of that state or foreign country, or a territory or possession of a country; or,

(ii) Operated pursuant to law with organized facilities for diagnosis and surgery, and 24-hour nursing service for the care and treatment of sick and injured persons, if the state or foreign country, or the territory or possession of the country does not have statutes or laws concerning the requirements for licensing hospitals.

(D) Any institution which is operated as a hospital by the United States government or a duly authorized agency thereof.

(5) "Orders of his or her physician" means court order or physician's or health officer's certificate or order of a physician as defined in Section 3209.3 of the Labor Code or order of a practitioner duly authorized by any bona fide church, sect, denomination or

organization whose principles or teachings call for dependence for healing entirely upon prayer or spiritual means or order of a duly authorized medical officer of any facility of the United States government or order of any member of any one of the professions enumerated in Section 3209.3 of the Labor Code duly licensed by and practicing within the scope of such license in any state outside this state or in any foreign country, or in a territory or possession of any country.

SEC. 2. Section 2627.7 of the Unemployment Insurance Code is amended to read:

2627.7. (a) If an individual, pursuant to orders of his or her physician, receives treatment in a hospital surgical unit or a surgical clinic which requires a stay of less than 24 hours, any unexpired full days of the waiting period required by subdivision (b) of Section 2627 shall be waived, provided the individual is disabled for a period of eight days or more during the disability benefit period as a result of the treatment.

(b) In addition to the certificate required by Section 2706.1, the waiver provided by this section shall be supported by both of the following:

(1) A certificate stating the day the individual received such treatment, signed by an appropriate official of the hospital or clinic. However, if it is not practical to obtain this certificate, the department may use any other means it deems reasonable to obtain verification of the information required by this paragraph.

(2) A certificate that the individual is disabled for eight days or more as a result of such treatment, signed by his or her physician.

(c) As used in this section:

(1) "Hospital" means:

(A) Within the State of California, any institution which is licensed as a general hospital by the State Department of Health Services under Section 1253 of the Health and Safety Code.

(B) Outside the State of California, any institution in another state or foreign country, or in a territory or possession of any country, which is either:

(i) Licensed as a hospital pursuant to the statutes or laws of that state, foreign country, or territory or possession of any country.

(ii) Operated pursuant to law with organized facilities for the care and treatment of sick and injured persons, if that state, foreign country, or territory or possession of any country does not have statutes or laws concerning requirements for licensing hospitals.

(C) Any institution operated as a hospital by the United States government or a duly authorized agency thereof.

(2) "Surgical clinic" means a clinic which is not a part of and not operating under the license of a hospital, which is licensed by the State Department of Health Services under Section 1205 of the Health and Safety Code or is exempt from licensing under subdivision (b), (c), (d), or (f) of Section 1206 of that code, and which provides treatment for patients who remain less than 24 hours.

A surgical clinic does not include the offices of private physicians as defined in Section 3209.3 of the Labor Code in individual or group practice.

(3) "Surgical unit" means a unit located in or operating under the license of a hospital and providing treatment for patients who remain less than 24 hours.

(4) "Orders of his or her physician" means a court order or physician's or health officer's certificate or order of a physician as defined in Section 3209.3 of the Labor Code or order of a duly authorized medical officer of any facility of the United States government or order of any member of any one of the professions enumerated in Section 3209.3 of the Labor Code duly licensed by and practicing within the scope of such license in any state outside this state or in any foreign country, or in a territory or possession of any country.

SEC. 3. Section 2658 of the Unemployment Insurance Code is amended to read:

2658. Notwithstanding any inconsistent provisions in this part, except as provided in subdivision (b) of Section 2611, in determining the benefit rights of any person who was involved in a trade dispute during the disability base period, as determined pursuant to Section 2610, there shall be excluded from the disability base period those quarters during which the person performed no services in employment for 60 days or more as a result of a trade dispute. For all quarters so excluded there shall be substituted an equal number of quarters immediately preceding the commencement of the trade dispute. In the event the disability base period so determined includes wages in calendar quarters for which the records have been destroyed under proper approval, a claimant may establish the amount of wages by affidavit in accordance with authorized regulations. The quarter of commencement of the trade dispute shall be counted as a completed quarter if the director finds that the inclusion thereof would be more equitable to the claimant.

SEC. 4. Section 2675 of the Unemployment Insurance Code is amended to read:

2675. (a) An individual shall be disqualified from receiving benefits under this part if he or she has willfully, for the purpose of obtaining benefits, either made a false statement or representation, with actual knowledge of the falsity thereof, or withheld a material fact in order to obtain any benefits under this part.

(b) An individual disqualified under subdivision (a) under a determination transmitted to him or her by the department, shall be ineligible to receive benefits for the day during which there occurred the cause of the disqualification and for not less than seven nor more than 35 subsequent days for which he or she is otherwise eligible for benefits under this part. When successive disqualifications under subdivision (a) occur, the director may extend the period of ineligibility for an additional period not to exceed 56 days.

(c) If all or any of the assessed days of ineligibility cannot be served because the individual is no longer otherwise eligible for benefits under this part, the assessed days of ineligibility shall be applied to any subsequent disability benefit period for which he or she is otherwise eligible for benefits. No disqualification under this subdivision shall be applied, however, to any day of eligibility which falls beyond the three-year period next succeeding the date upon which the determination was mailed or served by the department.

SEC. 5. Section 2735.1 is added to the Unemployment Insurance Code, to read:

2735.1. If the director finds that an individual has been overpaid unemployment compensation disability benefits because he or she willfully, for the purpose of obtaining unemployment compensation disability benefits, either made a false statement or representation, with actual knowledge of the falsity thereof, or withheld a material fact, the director shall assess against the individual an amount equal to 30 percent of the overpayment amount. For the purpose of collection, an assessment made pursuant to this section may be treated as an overpayment. Assessments collected under this section shall be deposited in the Unemployment Compensation Disability Fund. No penalty under this section shall be assessed with regard to any false statement or representation made prior to January 1, 1986.

SEC. 6. Section 2770 of the Unemployment Insurance Code is amended to read:

2770. Except when subdivision (b) of Section 2611 is applicable, in determining the benefit rights of trainees the disability base period shall exclude those quarters during which the trainee was in military service 60 days or more. For all quarters so excluded there shall be substituted an equal number of quarters immediately preceding the trainee's entry into military service. In the event the base period so determined includes wages in calendar quarters for which the records have been destroyed under proper approval, the claimant may establish the amount of the wages by affidavit in accordance with authorized regulation. The quarter of entry into military service shall be counted as a completed quarter if the director finds that the inclusion thereof would be more equitable to the trainee.

SEC. 7. Section 2777 of the Unemployment Insurance Code is amended to read:

2777. Except as provided in subdivision (b) of Section 2611, in determining the benefit rights of any industrially disabled person the disability base period shall exclude those quarters during which such person was industrially disabled for 60 days or more. For all quarters so excluded there shall be substituted an equal number of quarters immediately preceding the commencement of his or her industrial disability. In the event the base period so determined includes wages in calendar quarters for which the records have been destroyed under proper approval, a claimant may establish the amount of wages by affidavit in accordance with authorized regulations. The

quarter of commencement of an industrial disability shall be counted as a completed quarter if the director finds that the inclusion thereof would be more equitable to the industrially disabled person.

CHAPTER 1212

An act to add Section 463 to the Public Utilities Code, relating to public utilities.

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

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

SECTION 1. Section 463 is added to the Public Utilities Code, to read:

463. (a) For purposes of establishing rates for any electrical or gas corporation, the commission shall disallow expenses reflecting the direct or indirect costs resulting from any unreasonable error or omission relating to the planning, construction, or operation of any portion of the corporation's plant which cost, or is estimated to have cost, more than fifty million dollars ($50,000,000), including any expenses resulting from delays caused by any unreasonable error or omission. Nothing in this section prohibits a finding by the commission of other unreasonable or imprudent expenses. This subdivision is a clarification of the existing authority of the commission, is not intended to limit or restrict any power or authority of the commission conferred by any other provision of law, and applies to all matters pending before the commission. This section does not prohibit the commission from establishing rates for an electrical or gas corporation on a basis other than an allowed rate of return on undepreciated capital costs.

(b) Whenever an electrical or gas corporation fails to prepare or maintain records sufficient to enable the commission to completely evaluate any relevant or potentially relevant issue related to the reasonableness and prudence of any expense relating to the planning, construction, or operation of the corporation's plant, the commission shall disallow that expense for purposes of establishing rates for the corporation. This subdivision does not apply where the commission determines that a reasonable person could not have anticipated either the relevance or potential relevance, to an evaluation of costs incurred on the project, of preparing or maintaining the records or the extent of recordkeeping required to adequately evaluate those costs.

(c) For purposes of this section:

(1) "Planning" includes, but is not limited to, activities related to the initial and subsequent assessments of the need for a plant construction project; the selection of contractors and the negotiation

of contract provisions; certification; project organization; and site selection, including the investigation and interpretation of environmental factors such as seismic conditions and other external factors affecting the construction, operation, and safety of the plant.

(2) "Construction" includes, but is not limited to, activities related to engineering such as the development and use of specifications, drawings, and procedures; the preparation and use of construction plans, including blueprints; procurement activities; repairs, replacement, redesign, or repositioning of equipment and facilities; startup activities; and quality assurance and quality control activities.

(3) "Operation" includes, but is not limited to, activities related to decisions affecting the timing and nature of the use of the plant; dispatch and control activities and decisions; and plant operation, fuel loading, and maintenance.

(4) "Error" includes, but is not limited to, any action or direction which causes an avoidable (i) increase in the time required to bring the plant to full commercial operation, (ii) change in the number or types of personnel or firms required to bring the plant to full commercial operation, (iii) increase in the number of worker hours required to complete any portion of the plant construction project, or (iv) change of equipment, configuration, design, schedule, or program.

(5) "Omission" includes, but is not limited to, any failure to act or to provide direction which causes an avoidable (i) increase in the time required to bring the plant to full commercial operation, (ii) change in the number or types of personnel or firms required to bring the plant to full commercial operation, (iii) increase in the number of worker hours required to complete any portion of the plant construction project, or (iv) change of equipment, configuration, design, schedule, or program.

SEC. 2. The Public Utilities Commission, in its final order and decision in the application of Pacific Gas and Electric Company for an increase in rates reflecting expenses related to the construction of that project known as the Diablo Canyon Nuclear Power Plant, if the commission determines that the company shall be allowed to earn a return on undepreciated capital costs related to the project, shall make specific findings as to those costs, if any, including costs resulting from delays, directly or indirectly related to (1) the discovery of the Hosgri seismic fault, the reasonableness or prudence of when that discovery was made, and the reasonableness of the company's response to that discovery and (2) the questionable use of blueprints, commonly known as the "mirror image" problem, together with any other issues related to the adequacy of the quality assurance program which may have been revealed subsequent to the discovery of the "mirror image" problem. The commission shall, in addition, make specific findings as to whether or not any of these matters constitute errors or omissions under Section 463 of the Public Utilities Code. This section does not apply if the commission

establishes the rates for the Diablo Canyon Nuclear Power Plant on a basis other than an allowed rate of return on undepreciated capital costs.

CHAPTER 1213

An act to amend Sections 71202 and 71203 of the Education Code, relating to community colleges.

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

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

SECTION 1. (a) The Legislature finds that:

(1) California's four billion one hundred million dollar ($4,100,000,000) restaurant industry is one of the state's largest industries, and contributes significantly to the welfare and enjoyment of California residents by providing employment opportunities and tax revenues, as well as superb dining experiences.

(2) California's restaurant industry is projected to grow at an annual rate of 7 percent for the next 10 years, creating many new, quality jobs for culinary arts professionals in the state. Projections also indicate that there will be a serious shortage of trained personnel to fill these new positions.

(3) The California community colleges, with 35 districts operating culinary arts programs, are an important source of training for people desiring to begin professional careers in California's food industry.

(b) In enacting this act, it is the intent of the Legislature that California play a leadership role in improving culinary arts programs by providing incentive funding for the formation of partnerships between community colleges and local restaurants.

SEC. 2. Section 71202 of the Education Code is amended to read:

71202. (a) For the purposes of this article, a qualified in-service training program is one which provides all of the following:

(1) Addresses one or more vocational education curriculum areas, including culinary arts and food service, that are affected by changing technology and workplace skills.

(2) Provides for a local contribution to match state funds through financial support or in-kind services. For the purposes of this paragraph, local matching funds may include, but not be limited to, funds received from any of the following:

(A) The federal Job Training Partnership Act.

(B) The Employment Training Panel.

(C) Business labor councils.

(D) The private sector.

(E) Private foundations.

(3) Is conducted at the worksite, or in specialized training facilities owned or operated by private industry for the purposes of training.

(b) For purposes of this section, the only item of approved expenditure attributable to the state appropriation for this article shall be the stipends for the teacher or counselor and the 10 percent administration expenses. Approvable costs shall not include reimbursements to private industry for facilities or employer services.

SEC. 3. Section 71203 of the Education Code is amended to read:

71203. In selecting proposals to receive in-service training grants under this article, the chancellor shall ensure that all of the following criteria are met:

(a) The maximum amount that an individual district receives within a 12-month period shall not exceed one hundred thousand dollars ($100,000), except that multicollege districts may qualify to receive within a 12-month period an amount equal to fifty thousand dollars ($50,000) multiplied times the number of colleges within the district.

(b) The proposals selected shall reflect the diverse makeup of geographical regions, district sizes, and vocational education program offerings of the community college districts. The chancellor shall ensure, to the extent local applications are submitted for consideration, that culinary arts and food service programs receive a reasonable share of the in-service training grants.

(c) The proposals selected shall reflect areas of greatest need, taking into consideration the projected demand for skilled employees in particular occupational areas as well as the prior in-service training, coursework, and work experience of instructors and counselors in all vocational education curriculum areas who are eligible to participate in the program.

SEC. 4. Funds appropriated for the purposes of this act shall not be included within "the total amount of money allocated for public education in California," as that term is used in Section 8880.1 of the Government Code, as added by the California State Lottery Act of 1984.

CHAPTER 1214

An act to amend Section 19460 of, and to add Chapter 10 (commencing with Section 19850) to Part 2 of Division 10 of, the Welfare and Institutions Code, relating to rehabilitation, and making an appropriation therefor.

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

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

SECTION 1. Section 19460 of the Welfare and Institutions Code is amended to read:

19460. There is in the State Treasury a permanent revolving fund to be known as the Rehabilitation Revolving Loan Guarantee Fund, and to be administered by the department. There is within the Rehabilitation Revolving Loan Guarantee Fund the Supported Employment Revolving Loan Account. The money deposited in the fund is hereby appropriated, without regard to fiscal years, for the purposes of this article and Chapter 10 (commencing with Section 19890). The fund shall be used to guarantee loans made by eligible lenders to eligible persons for the purchase of vans, automobiles, and other special equipment to facilitate transportation of the physically handicapped, and to assist private employers and employees with disabilities to purchase durable equipment, adaptive aids, and assistive devices in order to engage in employment, including, but not limited to, supported employment as defined and determined by the department.

SEC. 2. Chapter 10 (commencing with Section 19850) is added to Part 2 of Division 10 of the Welfare and Institutions Code, to read:

CHAPTER 10. SUPPORTED EMPLOYMENT LOANS

19850. The Legislature finds and declares all of the following:

(a) The state has made a commitment to the development of appropriate vocational education, training, and employment-related activities for persons with disabilities.

(b) The goal of these activities is to provide that which is necessary for persons with disabilities to lead more independent, productive, and normal lives.

(c) The successful provision of these programs and services depends upon the cooperation of the public sector with the private sector, which is the primary source of competitive employment.

(d) The Department of Rehabilitation is the state department best suited to provide the leadership and coordination of activities necessary to ensure that persons with disabilities find the appropriate vocational training and employment opportunities.

(e) There is an important role to be played toward this goal by the Governor's Committee on Employment of the Handicapped, the Department of Developmental Services, the Employment Development Department, the State Department of Education, the community college system, and other state agencies.

(f) The federal government has announced a major initiative to influence the policies of states in the direction of "supported employment" for persons with disabilities who are unable to engage in competitive employment and who are not eligible for traditional vocational rehabilitation.

(g) The state must make a commitment to ensure there are

incentives for employers to hire persons with disabilities and that the disincentives to employment for these persons are eliminated.

19851. The Legislature also finds and declares that a loan guarantee program to assist employers and employees with disabilities to purchase durable equipment, adaptive aids, and assistive devices in order to engage in employment or supported employment, as defined by the department, is necessary to enable disabled persons to become effective participants in the work force.

19852. As used in this chapter:

(a) "Account" means the Supported Employment Revolving Loan Guarantee Account created pursuant to Section 19460.

(b) "Supported employment" means an alternative method of providing day activity services to individuals who do not qualify for vocational rehabilitation. There are four characteristics which distinguish "supported employment" from both vocational rehabilitation services and traditional methods of providing day activity services: (1) service recipients appear to lack the potential for unassisted competitive employment; (2) ongoing training, supervision and support services must be provided; (3) the opportunity is designed to provide the same benefits that other persons receive from work, such as an adequate income level, quality of working life, security, and mobility; and (4) there is flexibility in the provision of support which is necessary to enable the person to function effectively at the worksite.

19853. The Supported Employment Revolving Loan Guarantee Account shall be administered by the Department of Rehabilitation.

(a) Loan guarantees may be made to private employers and employees with disabilities to purchase durable equipment, adaptive aids, and assistive devices in order to engage in employment upon such terms and conditions as the department may, by regulation, determine. Nothing in this section shall be construed to allow public employers to abrogate their "reasonable accommodation" and related responsibilities pursuant to federal and state laws. Nothing in this section shall be construed to prevent the assistance of employees with disabilities who have been successfully rehabilitated or who are not eligible for vocational rehabilitative services with funds from the loan guarantee account to purchase newly developed equipment or to replace worn or obsolete equipment.

(b) In making decisions about eligibility for loan guarantees pursuant to this section, the department shall determine whether the person requesting a loan guarantee is not able to purchase the needed durable equipment, adaptive aid, or assistive device from a free or less costly source, including, but not limited to, Medi-Cal or vocational rehabilitation. In recommending eligibility for a loan from this account for an employee, the department shall make any loan guarantee contingent upon the employment of the person and upon a determination that the person reasonably can be expected to repay the loan given the expected income.

(c) The effective interest rate to the borrower shall be a percent

per annum, which is less than the fair market interest rate at the time the loan guarantee request is considered by the department, and which is based upon the ability of the borrower to pay, as determined by the department. When an application for a loan guarantee is approved by the department, the differential interest between the percent per annum approved by the department and the rate charged by the participating lender shall be prepaid by the department out of the supported employment loan guarantee account. If the borrower defaults on any loan guaranteed by this program, the participating lenders shall reimburse the department for any interest not accrued, after deduction for any unavoidable loss suffered by the lender.

(d) To the extent possible, loans made pursuant to this chapter shall provide for a security interest to be given the lending institution in the equipment, aids, and devices for which the loan is made.

19854. The department shall provide information to applicants for guarantees from the loan guarantee account on ways to eliminate disincentives to employment, including, but not limited to, the federal "special benefits" program pursuant to subsections (a) and (b) of Section 1619 of the Social Security Act, the Supplemental Security Income (SSI) "Extended Period of Eligibility" (EPE), the development of a "Plan to Achieve Self Support" (PASS), and the "Income Related Work Expense" (IRWE) options.

19855. No more than 10 percent per fiscal year of the account may be used by the department for documented administrative costs incurred in administering the account. The department may enter into contracts with any public or private party for the provision of services relating to the administration of this program.

19856. The department shall report on the utilization of the account to the Legislature by July 1, 1987. The report shall include, but not be limited to, (a) information on the types and costs of equipment, aids, and devices purchased with money from the account; (b) difficulties encountered in administering the account; (c) recommendations for changes in the provisions of this chapter; and (d) data on the fiscal impact and any savings to the state's General Fund as a result of assisting persons with disabilities in becoming engaged in employment through the provisions of this chapter.

19857. The Legislature finds and declares that there are persons with disabilities who are unable to purchase appropriate, individually tailored systems which will enable them to communicate and function within our communities. There is currently a lack of continuity of financing for some individuals for research, development, and clinical application of custom solutions which are unavailable commercially.

(a) The Legislature hereby authorizes the Director of Rehabilitation to fund two dependency reduction projects in order to make available for these persons for whom there is no source of funding for all or part of the services necessary to provide the

custom-tailored communication and functioning devices and systems, which will meet their needs and which are unavailable commercially. The dependency reduction projects shall be nonprofit corporations or educational institutions which have demonstrated abilities to provide necessary research, development, and clinical application of custom-tailored devices and systems.

(b) In determining what entities to designate as dependency reduction projects, the director shall take into account the willingness and ability of a prospective contractor to make any custom-tailored devices and systems available at reasonable costs for other persons with similar needs. The director may grant a license or the right of ownership for any devices or custom-tailored systems. This shall be addressed by the department in any regulations promulgated pursuant to the authority in this chapter.

For purposes of this section, a "custom-tailored system" which is unavailable commercially may consist of one or more commercially available components.

The projects shall provide direct client services which will include assessment, training, support, and followup services, which will ensure that the person is able to use successfully a custom-tailored device or system.

The department shall work closely with the dependency reduction projects in order to determine to what extent there might be any cost sharing or joint venture with the department and to ensure that there is no duplication of funding for any of the necessary services. No more than 10 percent of the appropriation shall be used by the department to develop, award, or administer the projects. The department may enter into contracts with any public or private party for the provision of services relating to the administration of this program.

(c) By October 1, 1986, the director shall report to the Legislature on the effectiveness of the dependency reduction projects in meeting the requirements of this chapter and shall make recommendations of policy changes which will ensure that persons with needs similar to those who have been served under the projects will be able to obtain necessary, individually tailored devices and systems at reasonable costs. This report shall include any recommendations on any other state agencies which should be responsible for providing, or paying for, any of the services which are necessary in order to implement the requirements of the dependency reduction projects.

(d) 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 that date, deletes or extends that date.

SEC. 3. Subject to the availability of funds, the sum of two hundred thousand dollars ($200,000) is hereby appropriated from the Rehabilitation Revolving Loan Guarantee Fund to the Department of Rehabilitation for deposit in the Supported Employment Revolving Loan Account for the purposes of Section 2

of this act.

SEC. 4. There is hereby appropriated two hundred fifty thousand dollars ($250,000) from the General Fund to the Department of Rehabilitation for purposes of the dependency reduction projects of this act.

CHAPTER 1215

An act to amend Sections 13841, 13843, 13845, and 13846 of, and to repeal and add Section 13844 to, and to repeal Section 13847 of, the Penal Code, and to repeal Section 4 of Chapter 1291 of the Statutes of 1982, relating to crime.

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

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

SECTION 1. Section 13841 of the Penal Code is amended to read:

13841. As used in this chapter:

(a) "Community" means city or county governments or portions or combinations thereof.

(b) "Elderly or senior citizen" means individuals 55 years of age or older.

(c) "Teenagers and young adults" means individuals between the ages of 15 and 24 years of age.

SEC. 2. Section 13843 of the Penal Code is amended to read:

13843. (a) Allocation and award of funds made available under this act shall be made upon application to the Office of Criminal Justice Planning. All applications shall be reviewed and evaluated by the Office of Criminal Justice Planning.

(b) The Executive Director of the Office of Criminal Justice Planning may allocate and award funds to communities developing and providing ongoing citizen involvement and crime resistance programs in compliance with the established policies and criteria of the Office of Criminal Justice Planning. Applications receiving funding under this section shall be selected from among those deemed appropriate for funding according to the criteria, policy, and procedures established by the Office of Criminal Justice Planning.

(c) No single award of funds under this chapter shall exceed a maximum of two hundred fifty thousand dollars ($250,000) for a 12-month grant period.

(d) Funds disbursed under this chapter shall not supplant local funds that would, in the absence of the California Community Crime Resistance Program, be made available to support crime resistance programs

(e) Funds disbursed under this chapter shall be supplemented with local funds constituting, at a minimum, 10 percent of the total

crime resistance program budget during the initial year and 20 percent in subsequent periods of funding.

(f) Annually, up to a maximum of 10 percent of the total funds appropriated to the Community Crime Resistance Program may be used by the Office of Criminal Justice Planning to support statewide technical assistance, training, and public awareness activities relating to crime prevention.

(g) Funds awarded under this program as local assistance grants shall not be subject to review as specified in Section 14780 of the Government Code.

(h) Within 90 days following the effective date of this chapter, the executive director shall prepare and issue written program and administrative guidelines and procedures for the California Community Crime Resistance Program, consistent with this chapter. In addition to all other formal requirements that may apply to the enactment of such guidelines and procedures, a complete and final draft of them shall be submitted no later than 60 days following the effective date of this chapter to the Chairpersons of the Assembly Committee on Public Safety and the Senate Judiciary Committee of the California Legislature.

(i) 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.

(j) Biannually, commencing November 1, 1986, the executive director shall prepare a report to the Legislature describing in detail the operation of the program and results obtained from the California Community Crime Resistance Program.

SEC. 3. Section 13844 of the Penal Code is repealed.

SEC. 4. Section 13844 is added to the Penal Code, to read:

13844. (a) Use of funds granted under the California Community Crime Resistance Program are restricted to the following activities:

(1) Further the goal of a statewide crime prevention network by supporting the initiation or expansion of local crime prevention efforts.

(2) Provide information and encourage the use of new and innovative refinements to the traditional crime prevention model in localities that currently maintain a well-established crime prevention program.

(3) Support the development of a coordinated service network, including information exchange and case referral between such programs as local victim-witness assistance programs, sexual assault programs, gang violence reduction programs, drug suppression programs, or any other established and recognizable local programs devoted to the lessening of crime and the promotion of the community's well-being.

(b) With respect to the initiation or expansion of local crime

prevention efforts, projects supported under the California Community Crime Resistance Program shall carry out as many of the following activities as deemed, in the judgment of the Office of Criminal Justice Planning to be consistent with available resources:

(1) Crime prevention programs using tailored outreach techniques in order to provide effective and consistent services for the elderly.

(2) Programs to promote neighborhood involvement such as, but not limited to, block clubs and other community or resident-sponsored anti-crime programs.

(3) Personal safety programs.

(4) Domestic violence prevention programs.

(5) Crime prevention programs specifically geared to youth in schools and school district personnel.

(6) Programs which make available to residents and businesses information on locking devices, building security and related crime resistance approaches.

(7) In cooperation with the Commission on Peace Officer Standards and Training, support for the training of peace officers in crime prevention and its effects on the relationship between citizens and law enforcement.

(8) Efforts to address the crime prevention needs of communities with high proportions of teenagers and young adults, low-income families, and non-English-speaking residents, including juvenile delinquency diversion, social service referrals, and making available crime resistance literature in appropriate languages other than English.

(c) With respect to the support of new and innovative techniques, communities taking part in the California Crime Resistance Program shall carry out those activities as determined by the Office of Criminal Justice Planning, that conform to local needs and are consistent with available expertise and resources, such as the following:

(1) Programs to reinforce the security of "latchkey" children, including neighborhood monitoring, special contact telephone numbers, emergency procedure training for the children, daily telephone checks for the children's well-being, and assistance in developing safe alternatives to unsupervised conditions for children.

(2) Programs dedicated to educating parents in procedures designed to do all of the following:

(A) Minimize or prevent the abduction of children.

(B) Assist children in understanding the risk of child abduction.

(C) Maximize the recovery of abducted children.

(3) Programs devoted to developing automated systems for monitoring and tracking crimes within organized neighborhoods.

(4) Programs devoted to developing timely "feedback mechanisms" whose goals would be to alert residents to new crime problems and to reinforce household participation in neighborhood security organizations.

(5) Programs devoted to creating and packaging special crime prevention approaches tailored to the special needs and characteristics of California's cultural and ethnic minorities.

(6) Research into the effectiveness of local crime prevention efforts including the relationships between crime prevention activities, participants' economic and demographic characteristics, project costs, local or regional crime rate, and law enforcement planning and staff deployment.

(d) All approved programs shall utilize volunteers to assist in implementing and conducting community crime resistance programs.

(e) Programs funded pursuant to this chapter shall demonstrate a commitment to support citizen involvement with local funds after the program has been developed and implemented with state moneys.

SEC. 5. Section 13845 of the Penal Code is amended to read:

13845. Selection of communities to receive funding shall include consideration of, but need not be limited to, the following:

(1) Compliance with subdivisions (a), (b), and (c) of Section 13844.

(2) The rate of reported crime, by type, including, but not limited to, the seven major offenses, in the community making the application.

(3) The number of elderly citizens residing in the community.

(4) The number and ratio of elderly crime victims compared to the total senior citizen population in that community.

(5) The number of teenagers and young adults residing in the community.

(6) The number and ratio of crimes committed by teenagers and young adults.

(7) The proportion of families with an income below the federally established poverty level in the community.

(8) The proportion of non-English-speaking citizens in the community.

(9) The display of efforts of cooperation between the community and their local law enforcement agency in dealing with the crime problem.

(10) Demonstrated effort on the part of the applicant to show how funds that may be awarded under this program may be coordinated or consolidated with other local, state or federal funds available for the activities set forth in Section 13844.

(11) Applicant must be a city or county government, or portion or combinations thereof.

SEC. 6. Section 13846 of the Penal Code is amended to read:

13846. (a) Evaluation and monitoring of all grants made under this section shall be the responsibility of the Office of Criminal Justice Planning. The Office of Criminal Justice Planning shall issue standard reporting forms for reporting the level of activities and number of crimes reported in participating communities. The

information shall be used in the biannual report to the Legislature required in subdivision (j) of Section 13843. The biannual report shall include, but not be limited to:

(1) The level of volunteer participation.

(2) The level of home and business security inspections.

(3) The number of programs directed at senior citizens and teenagers.

(b) Information on successful programs shall be made available and relayed to other California communities through the Office of Criminal Justice Planning technical assistance procedures.

SEC. 7. Section 13847 of the Penal Code is repealed.

SEC. 8. Section 4 of Chapter 1291 of the Statutes of 1982 is repealed.

CHAPTER 1216

An act to add and repeal Chapter 12 (commencing with Section 11100) of Part 7 of the Education Code, relating to hyperactive children, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

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

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

SECTION 1. Chapter 12 (commencing with Section 11100) is added to Part 7 of the Education Code, to read:

CHAPTER 12. PILOT PROJECT ON HYPERACTIVITY

11100. The Legislature finds that there is a high correlation between hyperactivity in children and juvenile delinquency. Studies have indicated that between 5 percent and 15 percent of school age children may easily be identified as being hyperactive. Though these children possess normal intelligence, their ability to learn is affected by their hyperactivity in a way that causes them serious social and academic problems. Estimates indicate that more than half of all male admissions to the California Youth Authority are hyperactive and that the average period of confinement of these hyperactive youths is substantially higher than nonhyperactive youths.

The Legislature further finds that little effort has been made to identify or assist hyperactive children, that methods for identification and assistance have been developed but have not been adequately tested, and that successful identification and assistance throughout California schools have the potential of significantly decreasing juvenile crime and correspondingly increasing the safety of the people of California.

11101. For purposes of this chapter, "hyperactivity" means Attention Deficit Disorder with Hyperactivity, as set forth in the Diagnostic and Statistical Manual of Mental Disorders, Third Edition, and is characterized by the following:

(1) Severely limited attention span.

(2) Impulsivity.

(3) Excessive motor activity.

(4) Poor organizational skills such as disorganized written and manual production.

(5) Difficulty in following oral directions.

Associated features include obstinacy, stubbornness, negativism, bossiness, bullying, increased mood lability, low frustration tolerance, temper outbursts, low self-esteem, and lack of response to discipline.

11102. There is hereby established a three-year Pilot Project on Hyperactivity in the San Diego Unified School District of San Diego County, the Lincoln School District of San Joaquin County, and the Long Beach Unified School District of Los Angeles County. The project shall use existing identification and assistance programs within those school districts and shall develop the programs in accordance with all of the following:

(a) The project shall serve hyperactive children enrolled in kindergarten and grades 1 through 6 who are not currently being served by any existing program.

(b) The project shall serve hyperactive children who have been referred by any of the following:

(1) A screening process.

(2) A teacher.

(3) Pupil personnel services.

(4) Other school personnel who have had opportunities to observe hyperactive children in interpersonal contacts.

(5) Parents.

(c) The project in each district shall include, but not be limited to, all of the following:

(1) School-based counseling and psychological services.

(2) Educational therapy.

(3) Nutritional evaluation.

(4) Parental involvement in the treatment programs.

(5) Referral to appropriate public and private community services for children in need of such a referral.

(d) Parental consent shall be obtained prior to the participation of a child in the project.

(e) No provision of this chapter shall be construed to authorize pilot project personnel to administer medication to any child participating in the project.

(f) All direct and indirect costs of the pilot project shall not exceed, and shall be paid solely from, funds appropriated for the purposes of this chapter.

11103. (a) There is hereby established a Joint Task Force on

Hyperactivity of the State Department of Justice and the State Department of Education. The task force shall be comprised of the following members:

(1) The Superintendent of Public Instruction, or his or her designee, who shall serve as chairperson of the task force.

(2) The Attorney General, or his or her designee.

(3) A psychiatrist specializing in hyperactivity, appointed by the Superintendent of Public Instruction.

(4) A representative from each of the school districts designated in Section 11102.

(5) A parent of a hyperactive child, appointed by the Superintendent of Public Instruction.

(6) A nutritionist, appointed by the Superintendent of Public Instruction.

(b) The task force shall oversee the implementation of the pilot project, provide information on its progress to other school districts, and offer assistance to other school districts wishing to adopt similar programs.

11104. (a) The task force shall develop a uniform system for the maintenance of records regarding each child identified as being hyperactive. The records shall include all of the following information:

(1) The assistance recommended and provided, if any.

(2) The nature of any serious disciplinary offense occurring while the child was at school.

(3) The nature of any criminal offense committed by the child during the time he or she was enrolled in the school district.

(4) The child's success or failure in completing the school program.

(b) The task force shall encourage other school districts to adopt this record keeping system.

(c) The information collected by the system shall be examined to determine what type of program, if any, and what method of assistance, if any, reduced childhood antisocial behavior, enhanced academic performance, and improved social adjustment.

(d) Information within the system which identifies any individual is confidential, and, except as authorized by this section, disclosure of that information is a misdemeanor. A coded identification system, which replaces the name of an individual with a code, shall be developed for recordkeeping purposes. The name of each individual and his or her corresponding code shall appear on a master list. The master list is, and shall be designated, confidential and shall be stored in a locked file. Upon the termination of the project, the master list shall be destroyed. The fact that information about an individual has been collected by the system is not admissible in any legal proceedings.

(e) At the end of the pilot project, the records, excepting all names and other personally identifiable information, shall be deposited with the Health Unit of the State Department of

Education.

11105. The task force shall report to the Legislature on or before January 1, 1989, on the progress of the pilot project and on whether or not the project has confirmed the Legislature's findings stated in Section 11100. The task force shall also recommend whatever additional legislation it finds advisable.

11106. This chapter shall become inoperative on July 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 dates on which it becomes inoperative and is repealed.

SEC. 2. The sum of two hundred ten thousand dollars ($210,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction for purposes of Chapter 12 (commencing with Section 11100) of Part 7 of the Education Code, for allocation according to the following schedule:

(a) To the San Diego Unified School District, for the 1986–87 fiscal year	$70,000 per fiscal year
(b) To the Lincoln School District, for the 1986–87 fiscal year	$70,000 per fiscal year
(c) To the Long Beach Unified School District, for the 1986–87 fiscal year	$70,000 per fiscal year

SEC. 3. It is the intent of the Legislature that funding for the purposes of Chapter 12 (commencing with Section 11100) of Part 7 of the Education Code for the 1987–88 and 1988–89 fiscal years be provided in the annual Budget Act for each of those fiscal years.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the funds to be allocated to the affected school districts pursuant to Section 2 of this act are 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:

So that the Joint Task Force on Hyperactivity of the State Department of Justice and the State Department of Education may begin its work as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 1217

An act to amend Sections 710, 1026, 1255.3, and 1585 of, to add Section 806 to, and to repeal Article 7 (commencing with Section 841) of Chapter 3 of Part 1 of Division 1 of, the Unemployment Insurance Code, and to repeal Sections 106 and 107 of Chapter 2 of the Statutes of 1978, relating to unemployment insurance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

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

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

SECTION 1. The Legislature hereby finds and declares all of the following:

(1) Untold numbers of Californians, particularly senior citizens, have been notified by the Employment Development Department that they are liable for unemployment insurance compensation benefit overpayments and for penalty assessments pursuant to Sections 1255.3, 1375, and 1375.1 of the Unemployment Insurance Code. As a result, the economic hardship on these Californians will be severe in many instances since these persons are receiving retirement pension income and a significant number of them are partially employed in order to supplement their family income.

(2) The Employment Development Department is conducting a manual search of thousands of unemployment insurance claims with the intent to recover untold numbers of overpayments which were made to senior citizens. The repayments range from ten dollars ($10) to three thousand dollars ($3,000) and require recipients to complete family financial data questionnaires in order to determine whether waiver of repayment is in order.

(3) Unknown numbers of Californians were not notified pursuant to Employment Development Department Field Office Directive 83-181 U.I. that there was any dispute regarding their entitlement to full unemployment insurance compensation benefits. This uncertainty with regard to notification was recently determined by a unanimous vote of the California Unemployment Insurance Appeals Board in Precedent Benefit Decision No. P-B-438, issued December 18, 1984, and in Precedent Benefit Decision No. P-B-439, issued January 29, 1985.

(4) The Employment Development Department failed to respond in a timely manner to a written legislative inquiry and request for documentation dated November 8, 1984, on this unemployment insurance compensation and pension offset issue.

(5) The United States Congress, in enacting Public Law 94-566, amended the Federal Unemployment Tax Act to require states to enact legislation which would withhold from unemployment

insurance benefits the amount of all prior work pension benefits received by a claimant from any source, effective with weeks beginning after September 30, 1979. The Congress later deferred the implementation date to weeks beginning after March 31, 1980, by House Resolution 3904. Tremendous public interest prompted the Congress to reexamine the pension offset issue, which resulted in the passage of Public Law 96-364. This act amended the pension offset program, for weeks beginning on or after November 1, 1980, to provide that pensions are deductible only if specific factors were present, and the act permitted the states the option of not deducting that portion of the pension benefit attributable to contributions made by the individuals.

(6) Conflicting interpretations with respect to the application of Section 1255.3 of the Unemployment Insurance Code have resulted in litigation. As a result, on May 2, 1982, a federal district court in the case of Rivera v. Patino (524 F. Supp. 136) held that if entitlement to social security benefits was earned prior to base period employment, the social security benefits could not be used to offset unemployment insurance benefits. The United States Ninth Circuit Court of Appeals reversed the district court's decision in Rivera v. Becerra and Donovan (714 F. 2d 887) on August 29, 1983. This decision was stayed on September 28, 1983, pending disposition by the United States Supreme Court of a petition for writ of certiorari. The Supreme Court denied certiorari and the self-imposed stay was lifted by the ninth circuit court on March 19, 1984.

(7) The Employment Development Department issued Field Office Directive No. 83-33, dated March 18, 1983, to inform its field offices that an appeal had been filed by the Department of Labor from the Rivera decision and that it would be necessary to inform claimants who were held to be eligible for benefits under the provisions of the Rivera criteria that an appeal from that decision had been filed and that they may have to repay any benefits received under the Rivera ruling should a higher court reverse that decision. The department developed a form DE 4240 to advise the claimants that they may be required to repay an overpayment in the event of an adverse decision by the courts in the Rivera case.

(8) In Gilles v. Dept. of Human Resources (11 Cal. 3d 313) the court indicated that equity and good conscience, the language used in Section 1375 of the Unemployment Insurance Code, was not rigid and specific, but looked to the basic precepts of justice and morality. The court indicated that notice is indeed one relevant factor, since the claimant who receives timely warning that he or she may be called upon to repay benefits cannot blindly assume no such obligation will be imposed. Under the Gilles, supra, situation, when a department knows litigation is pending and knows that the claimant may be required to repay benefits but fails to warn the claimant, the claimant thus loses the option of declining to accept benefits or accepting benefits and placing himself or herself in a position to repay.

(9) The Employment Development Department's rules and regulations, specifically Section 1375-1(d)(1) of Title 22 of the California Administrative Code, deal specifically with notice to the claimant and provide that a claimant is not liable for repayment of an overpayment in circumstances where an appeal is pending unless the claimant has had notice of a prospective requirement of repaying the overpayed benefits.

It was the intent of the Legislature in passing Chapter 1174 of the Statutes of 1980 to provide unemployment insurance compensation claimants with relaxed provisions of the federal pension offset law. Further, it was the intent of the Legislature in enacting Section 1255.4 of the Unemployment Insurance Code to provide that it is deemed to be against equity and good conscience within the meaning of subdivision (d) of Section 1375 of Title 22 of the California Administrative Code to collect an overpayment relating to a military pension based on medical disability and subject to the pension offset requirements enacted by Chapter 1174 of the Statutes of 1980.

It is further the intent of the Legislature in this act to require the Employment Development Department to cease benefit overpayment assessments and penalty assessments in social security pension offset situations, to retroactively return to these claimants any payments or penalty assessments which they have tendered and to utilize the proceeds of the Benefit Audit Fund and Unemployment Insurance Trust Fund for the purpose of ensuring that appropriate moneys are available to meet these required actions.

It is the intent of the Legislature in this act to prohibit the deduction of social security pensions received from base-period employers from all types of unemployment compensation benefits since November 1, 1980.

The Legislature further intends to maintain a pension offset standard while recognizing the equity issue between social security pensions and all other pensions. In addressing the "all other pensions" equity issue, the Legislature intends to permit a reduction of unemployment compensation benefits based on pension moneys attributable to the employer contributions which are presumed to occur after the claimant has received all of his or her own contributions plus interest and earnings.

SEC. 2. The Legislature hereby finds and declares that Chapter 2 of the Statutes of 1978, which requires local public employees to be covered by the state unemployment insurance law, constitutes a state-mandated local program, and, thus, local public entity costs incurred in complying with Chapter 2 are to be reimbursed by the state pursuant to Section 6 of Article XIII B of the California Constitution. Pursuant to Section 6 of Article XIII B of the California Constitution, and notwithstanding any other provision of law, the state shall not be liable for claims prior to July 1, 1980.

SEC. 3. Section 710 of the Unemployment Insurance Code is

amended to read:

710. (a) Any public entity for which services that do constitute employment under Section 605 are performed and for which other services that do not constitute employment are performed may elect to become an employer subject to this part and Parts 3 (commencing with Section 3501) and 4 (commencing with Section 4001) of this division for not less than two calendar years with respect to those other services and to have those other services performed by its employees constitute employment subject to this part and Parts 3 and 4 for that period. Upon the filing of an election the filing public entity shall, upon approval by the director, become an employer subject to this part and Parts 3 and 4 with respect to the services covered to the same extent as other employers, and those services performed by its employees, including those with civil service or tenure positions, shall constitute employment subject to this part and Parts 3 and 4 effective on the first day of the calendar quarter following the quarter in which the election is filed.

(b) The public entity may exclude from coverage under an election pursuant to this section any service excluded under Section 634.5.

(c) Any public entity that has elected coverage under this section may elect any method of financing coverage otherwise permitted under Section 803 or Article 6 (commencing with Section 821), but the same method of financing coverage shall apply to all coverage by the public entity. Subdivision (b) of Section 802 shall apply to any election under Section 803, except that any election under Section 803 shall be terminated on the effective date of the termination of an election for coverage under this section.

(d) The director may require from the public entity employment, financial, statistical, or other information and reports, properly verified, as may be deemed necessary by the director to carry out his or her duties under this division, which shall be filed with the director at the time and in the manner prescribed by him or her.

(e) The director may tabulate and publish information obtained pursuant to this section in statistical form and may divulge the name of the public entity.

(f) The public entity shall keep work records as prescribed by the director for the proper administration of this division.

(g) Except as inconsistent with the provisions of this section, the provisions of this division and authorized regulations shall apply to any matter arising pursuant to this section.

SEC. 4. Section 806 is added to the Unemployment Insurance Code, to read:

806. (a) The department shall give notice, as required by Section 1327, to each public entity, as defined by Section 605, which has elected a method of financing under Section 803 at a single address to be selected by the entity.

(b) The department shall implement subdivision (a) according to the following schedule:

(1) For the State of California, by July 1, 1986.

(2) For all public entities with more than 100 employees, by October 1, 1986.

(3) For all other local public entities, by January 1, 1987.

SEC. 5. Article 7 (commencing with Section 841) of Chapter 3 of Part 1 of Division 1 of the Unemployment Insurance Code is repealed.

SEC. 6. Section 1026 of the Unemployment Insurance Code is amended to read:

1026. (a) The director shall maintain a separate account for each employer, and shall credit each account with all the contributions paid on his or her behalf.

(b) Unemployment compensation benefits paid to an unemployed individual during any benefit year shall be charged against the account of his or her employer during his or her base period, but if the individual performed services in employment for more than one employer during his or her base period, unemployment compensation benefits paid to him or her shall be charged against the respective accounts of the employers in the proportion that the total wages paid to the individual in employment for each employer bears to the total wages paid to the individual in employment for all employers during the base period.

(c) The director shall credit the interest earned by the Unemployment Fund to each positive reserve employer account in proportion to the amount the account bears to the total of all positive reserve accounts.

(d) Except as provided by Sections 803, 804, 821, and 1032.7, and Chapter 5.8 (commencing with Section 1480), in proportion to the amount each employer's taxable wages bears to the total of all employers' taxable wages, the director shall credit to each employer account all of the following:

(1) Benefit overpayments collected in the four quarters prior to the computation date.

(2) Contributions paid pursuant to Section 978.5.

(3) Positive balances in reserve accounts canceled pursuant to Section 1029.

(4) Other nontax income.

(e) Except as provided by Sections 803, 804, 821, and 1032.7, and Chapter 5.8 (commencing with Section 1480), in the same proportion as provided in subdivision (d), the director shall charge to each employer account all of the following:

(1) The amount of negative reserve balances accrued to the computation date each year.

(2) Benefit overpayments established in the four quarters prior to the computation date.

(3) Benefits not charged to employer reserve accounts pursuant to Section 1032, 1032.5, 1034, 1035, 1036, 1335, 1338, or 1380.

(4) Other items of expense and benefit charges not included in active employer reserve accounts.

SEC. 7. Section 1255.3 of the Unemployment Insurance Code is amended to read:

1255.3. (a) Except as provided by subdivision (c), the amount of unemployment compensation benefits, extended duration benefits, and federal-state extended benefits payable to an individual for any week which begins after March 31, 1980, and which begins in a period with respect to which that individual is receiving a governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment which is based on the previous work of the individual shall be reduced, but not below zero, by an amount equal to the amount of the pension, retirement or retired pay, annuity, or other payment, which is reasonably attributable to that week.

(b) Subdivision (a) shall be operative only during such time as Section 3304 of the Federal Unemployment Tax Act requires that state unemployment insurance laws contain those provisions as a condition of certification of state unemployment insurance laws by the Secretary of Labor.

(c) (1) Subdivision (a) shall apply to any pension, retirement or retired pay, annuity, or other similar periodic payment only if both of the following are met:

(A) The pension, retirement or retired pay, annuity, or similar payment is under a plan maintained (or contributed to) by a base period or chargeable employer.

(B) In the case of such a payment not made under the federal Social Security Act or the federal Railroad Retirement Act of 1974 (or the corresponding provisions of prior law), services performed for the employer by the individual after the beginning of the base period (or remuneration for such services) affect eligibility for, or increase the amount of, such pension, retirement or retired pay, annuity, or similar periodic payment.

(2) In addition, subdivision (a) shall not apply to federal old-age, survivors, and disability insurance benefits provided for under Title II of the federal Social Security Act (42 U.S.C. Sec. 401 et seq.).

It shall be presumed that any moneys, including interest and earnings, received by a claimant from any pension, retirement or retired pay, annuity, or other similar periodic payment are divisible between the employee and employer contributions. It is further presumed that employee's contributions are received prior to employer contributions. Under these circumstances, the employee's contributions shall not apply to subdivision (a).

(d) The provisions of subdivision (a) shall not apply to that portion of any pension, retirement or retired pay, annuity or other similar periodic payment which is attributable to contributions made by the individual for the pension, retirement or retired pay, annuity, or other similar periodic payment.

(e) Except as otherwise provided in subdivision (f), the amendments made to subdivision (c) of this section during the 1985 portion of the 1985–86 Regular Session shall apply retroactively to all unemployment compensation benefits, extended duration benefits,

and federal-state extended benefits, payable to an individual for any week which begins after November 1, 1980.

(f) Notwithstanding Section 1341, the retroactive application of subdivision (c), as provided in subdivision (e), shall be limited to benefits payable to claimants who are alive on the effective date of the amendments made to this section during the 1985 portion of the 1985–86 Regular Session.

SEC. 8. Section 1585 of the Unemployment Insurance Code is amended to read:

1585. There is in the State Treasury a special fund known as the Employment Development Department Contingent Fund. The Employment Development Department Contingent Fund is the successor of the Department of Human Resources Development Contingent Fund. There shall be deposited in or transferred to this fund:

(a) All interest on contributions collected under this division, except as provided in Section 1595 and in Article 6 (commencing with Section 821) of Chapter 3.

(b) All penalties collected under this division, except as provided in Sections 1375.1, 1958, and 3654.2, and in Article 6 (commencing with Section 821) of Chapter 3.

(c) Notwithstanding any other provision of law, all penalties and interest collected by the department pursuant to Division 6 (commencing with Section 13000) relating to the withholding of personal income tax.

(d) Rental payments or proceeds attributable to property derived from amounts expended from this fund.

(e) Interest on amounts expended from this fund.

SEC. 9. Section 106 of Chapter 2 of the Statutes of 1978 is repealed.

SEC. 10. Section 107 of Chapter 2 of the Statutes of 1978 is repealed.

SEC. 11. Except for claimants who are not alive on the effective date of this act, the Employment Development Department shall refund immediately all benefit overpayment assessments received since March 1, 1984, from the Unemployment Insurance Trust Fund and penalties received since March 1, 1984, from the Benefit Audit Fund relating to the pension benefit offset issue.

The Employment Development Department shall utilize the moneys in the Unemployment Insurance Trust Fund for refunding all types of unemployment compensation benefits pursuant to this act.

SEC. 12. Reimbursements to local public entities, except fee-supported special districts, for costs incurred pursuant to Chapter 2 of the Statutes of 1978 for fiscal years 1984–85 and 1985–86 shall be made pursuant to the State Mandates Apportionments System as enacted by Assembly Bill 1791 during the 1985–86 Regular Session of the Legislature, from funds appropriated by this act.

SEC. 13. Section 5 of this act, repealing Article 7 (commencing

with Section 841) of Chapter 3 of Part 1 of Division 1 of the Unemployment Insurance Code, shall be operative on January 1, 1986. All local public entities shall terminate their elections to finance unemployment insurance coverage pursuant to Article 7 (commencing with Section 841) of Chapter 3 of Part 1 of Division 1 of the Unemployment Insurance Code as of that date, and shall thereafter pay contributions required by Chapter 4 (commencing with Section 901) of Part 1 of Division 1 of the Unemployment Insurance Code, or file an election pursuant to Article 5 (commencing with Section 801) of Chapter 3 of Part 1 of Division 1 of the Unemployment Insurance Code.

Notwithstanding Section 843 of the Unemployment Insurance Code, the director shall determine the balance of each member of the Local Public Entity Employees Fund as of December 31, 1985. Public entities with positive account balances shall be refunded their account balances. Public entities with negative account balances shall have their reimbursement under Section 12 of this act reduced by the amount owing.

SEC. 14. Notwithstanding any other provision of law, the Director of Employment Development shall not assess nor collect any interest or penalties for nonpayment on those billings sent to public entities on or after May 22, 1984, and before the effective date of this act, and which remain unpaid on the effective date of this act. The Director of Employment Development shall reimburse any public entity the amount of interest or penalties paid by that entity on any billings sent to that entity on or after May 22, 1984, and before the effective date of this act.

SEC. 15. Sections 1, 7, 11, and 16 of this act shall be known and may be cited as the McAlister-Duffy-Greene Unemployment Benefit Pension Offset Refund Act.

SEC. 16. The Employment Development Department shall prepare and publish a printed summary describing liability for unemployment insurance compensation benefit overpayment, penalty assessments, and the pension offset issue, which shall be included with each refund of unemployment insurance benefit overpayment assessment and with each refund of unemployment insurance, extended duration, and federal-state extended benefits which were offset by that portion of any pension, retirement, or retired pay, annuity, or other similar periodic payment.

The printed summary shall contain wording in the 10-point bold type which includes, but is not limited to, the following:

"The McAlister-Duffy-Greene Unemployment Benefit Pension Offset Refund Act provides that since November 1, 1980, any unemployment insurance compensation benefit payment which was offset by a pension pursuant to Public Law 94-566 shall be refunded by the Employment Development Department."

SEC. 17. The sum of forty-five million five hundred thousand dollars ($45,500,000) is hereby appropriated according to the following schedule:

(a) The sum of one million five hundred thousand dollars ($1,500,000) is hereby appropriated from the Benefit Audit Fund to the Employment Development Department for refund of penalties received relating to the pension benefit offset issue, as provided in Section 11 of this act.

(b) The sum of forty-four million dollars ($44,000,000) is hereby appropriated from the General Fund to the Controller for purposes of reimbursements to local public entities as provided in Section 12 of this act.

SEC. 18. 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. 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 necessity are:

To correct an immediate inequity placed upon Californians and to relieve any economic hardship since neither fraud nor willful misrepresentation was involved in the receipt of these benefit overpayments, it is necessary for this act to take effect immediately.

In addition, in order to reimburse local entities for state-mandated cost incurred pursuant to Chapter 2 of the Statutes of 1978 as soon as possible, it is necessary for this act to take effect immediately.

SEC. 20. 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.

CHAPTER 1218

An act to amend Section 6254 of the Government Code, and to amend Section 14165.9 of the Welfare and Institutions Code, relating to health care services.

[Approved by Governor September 28, 1985 Filed with Secretary of State September 29, 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 occurrence, the time and date of the report, the name, age and current address of the victim, except that the address of the victim of any crime defined by Section 261, 264, 264.1, 273a, 273d, 286, 288, 288a, or 289 of the Penal Code shall not be disclosed, the factual circumstances surrounding the crime or incident, and a general description of any injuries, property, or weapons involved.

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination, except as provided for in Chapter 3 (commencing with Section 99150) of Part 65 of the Education Code.

(h) The contents of real estate appraisals 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.

Except for the portion of a contract containing the rates of payment, 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, except for any portion containing the rates of payment, 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.

Three years after a contract or amendment is open to inspection under this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

Notwithstanding any other provision of law, the entire contract or amendment shall be open to inspection by the Joint Legislative Audit Committee. The Joint Legislative Audit Committee shall maintain the confidentiality of the contracts and amendments until such time as a contract or amendment is fully open to inspection by the public.

(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.

SEC. 2. Section 14165.9 of the Welfare and Institutions Code is amended to read:

14165.9. The commission shall report to the Legislature on January 1 and May 1 of each year. The January report shall include all of the following:

(a) The number and type of health service contracts.

(b) The persons served, cost per service, and other relevant and statistical information.

(c) The projected contract services and estimated costs. The May report shall serve as an update of information contained in the January report.

(d) The average per diem rate received by contract hospitals, as of December 1 of the preceding year, shall be reported in the following categories:

(1) Statewide.

(2) By standard consolidated statistical area, as defined by the most recent United States Census.

(3) By that portion of the state not included within a standard consolidated statistical area.

(4) Statewide by hospitals with 1–99 beds, 100–299 beds, and over 300 beds.

(e) The total number of hospitals receiving a net increase, a net decrease, or having a contract rate tied to patient volume during the preceding 12 months.

The May report shall serve as an update of information contained in subdivisions (a) to (c), inclusive, of the January report.

CHAPTER 1219

An act to add and repeal Section 19356.5 to the Welfare and Institutions Code, relating to habilitation services, and making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

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

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

SECTION 1. Section 19356.5 is added to the Welfare and Institutions Code, to read:

19356.5. (a) Notwithstanding subdivision (b) of Section 19356, the department shall have the authority to set rates for new work activity programs commencing with the 1985–86 fiscal year. Subdivision (a) of Section 19356, and regulations promulgated thereunder, shall govern the establishment of new work activity programs in terms of confirming the need for a new work activity program, the capacity of that program to deliver services effectively, and the ability of the program to comply with accreditation and certification requirements of the Habilitation Services Program where applicable. For purposes of this section, new work activity programs shall include those which first began providing habilitation services in the 1984–85 fiscal year at rates based on the statewide average rate.

New work activity programs shall not include any existing work activity program components currently funded by the department or any related or successor organizations to such work activity programs. This definition of a new work activity program is intended to prevent any work activity program from frustrating the purposes of this section by reorganizing in an attempt to qualify as a new work activity program. This limitation is not, however, intended to restrict the establishment of a new program component by an existing

provider, as specified in paragraphs (2) and (3) of subdivision (d).

(b) When a new work activity program has a historical cost period on which to base a rate, as specified in subdivision (a) of Section 19356, and the regulations promulgated thereunder, the department shall set the rate in accordance with that subdivision and the rate derived thereby shall, subject to rate adjustments provided by law, remain the rate of that work activity program until July 1, 1988.

(c) Whenever a new work activity program does not have a historical cost period on which to base a rate, the rate for that work activity program shall, for the first state fiscal year of funding under this chapter, be based on a statewide average rate. The department shall set the rate for the second fiscal year of funding under this chapter in accordance with subdivision (b).

(d) Any rate determined pursuant to subdivision (c) shall be set according to whichever of the following statewide averages is most applicable, with respect to the purpose or size of the new work activity programs:

(1) The statewide average rate of all work activity programs of similar size based on the average number of all clients served in all work related programs in the historical cost period of those work activity programs. Average rates shall be determined for work activity programs serving an average of one to 30 clients, 31 to 100 clients, and more than 100 clients.

(2) The statewide average rate of all work activity programs, without regard to size, which have as their primary purpose the provision of services to meet the habilitation needs of special groups of persons with developmental disabilities such as persons with cerebral palsy or autism.

(3) The statewide average rate of all work activity programs, without regard to size, which have as their primary purpose the provision of community integrated services including, but not limited to, work stations within industry, supervision at the employer site, on-the-job support, job coaching, job-placement followup, and employer intervention.

(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.

SEC. 2. (a) The sum of six hundred thousand dollars ($600,000) is hereby appropriated from the General Fund to the Department of Rehabilitation, for expenditure during the 1985–86 fiscal year, in order to implement Section 19356.5 of the Welfare and Institutions Code, as contained in Section 1 of this act. If the amount of six hundred thousand dollars ($600,000) appropriated by the Budget Act of 1985 may be used to implement Section 19356.5 of the Welfare and Institutions Code, then those funds shall be used to implement that section in lieu of the appropriation made by this subdivision.

(b) If all funds appropriated for purposes of implementing Section 19356.5 of the Welfare and Institutions Code, either for the

1985–86 fiscal year, or for any subsequent fiscal year, are expended prior to the end of the applicable fiscal year, the Department of Rehabilitation may utilize other funds appropriated for purposes of Chapter 4.5 (commencing with Section 19350) of Division 10 of the Welfare and Institutions Code in order to implement Section 19356.5 of the Welfare and Institutions Code.

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

In order to ensure that an adequate ratesetting methodology for services provided by work activity programs being funded by the Department of Rehabilitation is established for the 1985–86 fiscal year, it is necessary that this act go into immediate effect.

CHAPTER 1220

An act to repeal Article 1.1 (commencing with Section 8756) of Chapter 4 of Part 3 of Division 2 of the Revenue and Taxation Code, relating to taxation.

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

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

SECTION 1. Article 1.1 (commencing with Section 8756) of Chapter 4 of Part 3 of Division 2 of the Revenue and Taxation Code is repealed.

CHAPTER 1221

An act to amend Sections 14005.16 and 14006.2 of the Welfare and Institutions Code, to amend Section 1 of Chapter 1518 of the Statutes of 1984, and to repeal Section 2 of Chapter 1031 of the Statutes of 1983, relating to medical assistance, and declaring the urgency thereof, to take effect immediately.

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

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

SECTION 1. Section 14005.16 of the Welfare and Institutions Code is amended to read:

14005.16. (a) In determining the eligibility of a married individual, pursuant to Section 14005.4 or 14005.7, who resides in a

skilled nursing facility or an intermediate care facility, and who is in a Medi-Cal family budget unit separate from that of his or her spouse, the community property interest of the noninstitutionalized spouse in the income of the married individual shall not be considered income available to that individual.

(b) For the purposes of this section, there shall be a presumption, rebuttable by either spouse, that each spouse has a community property interest in one-half of the total monthly income of both spouses.

SEC. 2. Section 14006.2 of the Welfare and Institutions Code is amended to read:

14006.2. (a) In determining the eligibility of a married individual, pursuant to Section 14005.4 or 14005.7, who, in accordance with Title XIX of the federal Social Security Act and regulations adopted pursuant thereto, is considered to be living separately from his or her spouse, the individual shall be considered to have made a transfer of resources for full and adequate consideration under Section 14006 or 14015 by reason of either of the following:

(1) Having entered into a written agreement with his or her spouse dividing their community property into equal shares of separate property. Property so agreed to be separate property shall be considered by the department to be the separate property of the spouse who, pursuant to the agreement, is the owner of the property. Only in cases in which separate property owned by one spouse is actually made available to the other spouse, may the department count the separate property in the eligibility determination of the nonowner spouse.

(2) Having transferred to his or her spouse all of his or her interest in a home, whether the transfer was made before or after the individual became a resident in a skilled nursing facility or an intermediate care facility in accordance with and to the extent permitted by Title XIX of the federal Social Security Act and regulations promulgated pursuant thereto.

(b) The department shall furnish to all Medi-Cal applicants a clear and simple statement in writing advising them that (1) in the case of an individual who is an inpatient in a skilled nursing facility, intermediate care facility or other medical institution, if the individual or the individual's conservator transferred to the individual's spouse all of the interest in a home, the individual shall not be considered ineligible for Medi-Cal by reason of the transfer; and that (2) if the individual and the individual's spouse execute a written interspousal agreement which divides and transmutes community property into equal shares of separate property, the separate property of the individual's spouse shall not be considered available to the individual and need not be spent by the spouse for the individual's care in a skilled nursing facility, intermediate care facility or other medical institution. The statement provided for in this subdivision shall also be furnished to each individual admitted to a skilled nursing or intermediate care facility, along with, but

separately from, the statement required under Section 72527 of Title 22 of the California Administrative Code.

(c) In order to qualify for Medi-Cal benefits pursuant to Section 14005.4 or 14005.7, a married individual who resides in a skilled nursing facility or intermediate care facility, and who is in a Medi-Cal budget unit separate from that of his or her spouse, shall be required to expend his or her other resources for his or her own benefit, so that the amount which remains does not exceed the limit established pursuant to subdivision (c) of Section 14006. For purposes of this section, the term "his or her other resources" shall be limited to the following:

(1) All of his or her separate property that would not have been exempt under applicable Medi-Cal laws and regulations at the time when he or she entered a skilled nursing or intermediate care facility, or at the date of execution of the agreement referred to in this section, whichever is earlier. For purposes of this paragraph, the mere change of residence from one facility to another shall not be deemed to be a new entry.

(2) One-half of all the community property, or the proceeds from the sale or exchange of that property, that would not have been exempt at the time described in paragraph (1).

(d) For purposes of subdivision (c), in the absence of an agreement such as that referred to in subdivision (a), there shall be a presumption, rebuttable by either spouse, that all property owned by either spouse was community property.

(e) The statement furnished pursuant to subdivision (b) shall advise all persons entering a long-term care facility, and all Medi-Cal applicants that only their half of the community property shall be taken into account in determining their eligibility for Medi-Cal, whether or not they execute the written interspousal agreement referred to in the statement.

SEC. 3. Section 1 of Chapter 1518 of the Statutes of 1984 is amended to read:

Section 1. It is the intent of the Legislature in enacting this act to reduce the number of situations in which a misunderstanding of the Medi-Cal Act, as it applies to nursing home costs, causes either the unnecessary destitution of the entire family, or a dissolution of marriage unnecessarily carried out to prevent destitution.

It is further the intent of the Legislature that the community property and community income of a noninstitutionalized spouse be protected for his or her use, when the other spouse becomes institutionalized, and must apply for Medi-Cal to pay the cost of skilled or intermediate nursing facility care.

It is further the intent of the Legislature that Medi-Cal eligibility standards shall reflect and be commensurate with the duty of an institutionalized recipient to support his or her family.

SEC. 4. Section 2 of Chapter 1031 of the Statutes of 1983 is repealed.

SEC. 5. (a) The State Director of Health Services shall, within 30

days of the effective date of this act, adopt emergency regulations implementing this act in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purposes of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare.

(b) 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 that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 6. (a) Any provision of this act that is in conflict with any federal statute or regulation shall be inapplicable to the extent of the conflict, but the provision and the remainder of the provisions shall be unaffected to the extent no conflict exists.

No provision of this act shall be considered to be in conflict with any federal statute or regulation until after a final determination of the Secretary of the United States Department of Health and Human Services, made pursuant to Section 1116(a) (3) of the federal Social Security Act, finding such a conflict.

(b) In the event of an initial determination by the Secretary of the United States Department of Health and Human Services that any provision of this act is in conflict with any federal statute or regulation, the State Department of Health Services shall take all available and necessary steps to obtain a final determination reversing that decision. In the event of a final determination finding a conflict with federal law, the State Department of Health Services shall immediately request the Attorney General of California to seek judicial review of the determination, and shall immediately notify the appropriate policy and fiscal committees of both houses of the Legislature.

(c) In the event of a final determination finding that any provision of this act conflicts with federal law, the State Department of Health Services shall adopt emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, if necessary to avoid withholding of federal reimbursement. The State Department of Health Services shall continue to implement provisions of this act which are unaffected by the final determination.

(d) The State Director of Health Services shall adopt regulations implementing this act as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purposes of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the adoption of the regulations shall be deemed to be an emergency and necessary for the immediate

preservation of the public peace, health and safety, or general welfare. Notwithstanding the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, emergency regulations adopted by the State Department of Health Services in order to implement this act shall not be subject to the review and approval of the Office of Administrative Law. These regulations shall become effective immediately upon filing with the Secretary of State.

(e) If any provision of this act, or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions of applications of these provisions that can be given effect without the invalid provision or application, and to this end these provisions are severable.

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 effectuate necessary changes in the Medi-Cal program as soon as possible, it is necessary that this act go into immediate effect.

CHAPTER 1222

An act to amend Section 51220 of the Education Code, relating to schools, and making an appropriation therefor.

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

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

SECTION 1. On or before June 30, 1986, the State Department of Education shall develop a model curriculum for use by school districts maintaining grades 7 to 12, inclusive, to be incorporated into existing history or social studies courses offered by these districts relating to the issue of genocide. The model curriculum shall prescribe a separate course of study for grades 7 to 9, inclusive, and grades 10 to 12, inclusive. The model curriculum shall be offered by school districts to meet the mandatory course requirements of Sections 51210 and 51225.3 of the Education Code, commencing with the 1986–87 school year. Prior to dissemination of the model curriculum to school districts, the model curriculum shall be approved by the State Board of Education.

The model curriculum shall be incorporated into existing history or social studies courses without an increased level of services or lengthened schoolday.

SEC. 2. Section 51220 of the Education Code is amended to read:

51220. The adopted course of study for grades 7 to 12, inclusive,

shall offer courses in the following areas of study:

(a) English, including knowledge of and appreciation for literature, language, and composition, and the skills of reading, listening, and speaking.

(b) Social sciences, drawing upon the disciplines of anthropology, economics, geography, history, political science, psychology, and sociology, designed to fit the maturity of the pupils. Instruction shall provide a foundation for understanding the history, resources, development, and government of California and the United States of America; instruction in our American legal system, the operation of the juvenile and adult criminal justice systems, and the rights and duties of citizens under the criminal and civil law and the State and Federal Constitutions; the development of the American economic system including the role of the entrepreneur and labor; man's relations to his human and natural environment; eastern and western cultures and civilizations; human rights issues, with particular attention to the study of the inhumanity of genocide; and contemporary issues.

(c) Foreign language or languages, beginning not later than grade 7, designed to develop a facility for understanding, speaking, reading, and writing the particular language.

(d) Physical education, with emphasis given to such physical activities as may be conducive to health and to vigor of body and mind.

(e) Science, including the physical and biological aspects, with emphasis on basic concepts, theories, and processes of scientific investigation and on man's place in ecological systems, and with appropriate applications of the interrelation and interdependence of the sciences.

(f) Mathematics, including instruction designed to develop mathematical understandings, operational skills, and insight into problem-solving procedures.

(g) Fine arts, including art, music, or drama, with emphasis upon development of aesthetic appreciation and the skills of creative expression.

(h) Applied arts, including instruction in the areas of consumer and homemaking education, industrial arts, general business education, or general agriculture.

(i) Vocational-technical education designed and conducted for the purpose of preparing youth for gainful employment in such occupations and in such numbers as appropriate to the manpower needs of the state and the community served and relevant to the career desires and needs of the students.

(j) Automobile driver education, designed to develop a knowledge of the provisions of the Vehicle Code and other laws of this state relating to the operation of motor vehicles, a proper acceptance of personal responsibility in traffic, a true appreciation of the causes, seriousness and consequences of traffic accidents, and to develop the knowledge and attitudes necessary for the safe operation

of motor vehicles. A course in automobile driver education shall include education in the safe operation of motorcycles.

(k) Such other studies as may be prescribed by the governing board.

SEC. 3. The sum of twenty-five thousand dollars ($25,000) is hereby appropriated from the General Fund to the State Department of Education for administrative costs incurred by the department pursuant to Section 1 of this act.

SEC. 4. 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 1223

An act to amend Sections 5500, 5515, 5518, 5522, 5524, 5526, 5536, 5537.1, 5551, 5552, 5553, 5555, 5557, 5560, 5561, 5561.5, 5565, 5566.1, 5570, 5573, 5577, 5578, 5579, 5580, 5582, 5582.1, 5583, 5584, 5585, 5588, 5589, 5590, 5600, 5600.1, 5600.2, 5600.3, 5604, 5610, 5610.1, 5610.6, and 5610.7 of, to amend and renumber Sections 5537.3, 5537.4, 5537.5, and 5537.6 of, to add Section 5510.1 to, and to repeal Section 5600.05 of, the Business and Professions Code, relating to architects.

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

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

SECTION 1. Section 5500 of the Business and Professions Code is amended to read:

5500. As used in this chapter, architect means a person who is licensed to practice architecture in this state under the authority of this chapter.

SEC. 2. Section 5510.1 is added to the Business and Professions Code, to read:

5510.1. The Legislature finds and declares that it is the mandate of the board to regulate the practice of architecture in the interest and for the protection of the public health, safety, and welfare. For this purpose, the board shall delineate the minimum professional qualifications and performance standards for admission to and practice of the profession of architecture. The board shall establish a fair and uniform enforcement policy to deter and prosecute violations of this chapter or any rules and regulations promulgated pursuant to this chapter to provide for the protection of the consumer.

SEC. 3. Section 5515 of the Business and Professions Code is amended to read:

5515. Every person appointed shall serve for four years and until the appointment and qualification of his or her successor or until one year shall have elapsed since the expiration of the term for which he or she was appointed, whichever first occurs.

No person shall serve as a member of the board for more than two consecutive terms.

Vacancies occurring prior to the expiration of the term shall be filled by appointment for the unexpired term.

Each appointment shall expire on June 1 of the fourth year following the year in which the previous term expired.

The Governor shall appoint three of the public members and the four licensed members qualified as provided in Section 5514. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member.

SEC. 3.5. Section 5515 of the Business and Professions Code is amended to read:

5515. Every person appointed shall serve for four years and until the appointment and qualification of his or her successor or until one year shall have elapsed since the expiration of the term for which he or she was appointed, whichever first occurs.

No person shall serve as a member of the board for more than two consecutive terms.

Vacancies occurring prior to the expiration of the term shall be filled by appointment for the unexpired term.

Each appointment shall expire on June 1 of the fourth year following the year in which the previous term expired.

The Governor shall appoint three of the public members and the five licensed members qualified as provided in Section 5514. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member.

SEC. 4. Section 5518 of the Business and Professions Code is amended to read:

5518. The board shall elect from its members a president, a vice president, and a secretary to hold office for one year, or until their successors are duly elected and qualified.

SEC. 5. Section 5522 of the Business and Professions Code is amended to read:

5522. The board shall meet at least once each calendar quarter for the purpose of transacting such business as may lawfully come before it.

The board may hold meetings at such other times and at such places as it may designate.

SEC. 6. Section 5524 of the Business and Professions Code is amended to read:

5524. Five of the members of the board constitute a quorum of the board for the transaction of business. The concurrence of five members of the board present at a meeting duly held at which at least one licensed member is present shall be necessary to constitute an act or decision of the board.

SEC. 7. Section 5526 of the Business and Professions Code is amended to read:

5526. The board shall formulate and adopt a code of rules and regulations for its government in the examination of applicants for licenses to practice architecture in this state. The board may formulate and adopt such other rules and regulations as may be necessary and proper. No rule or regulation shall be inconsistent with this chapter. The board may, from time to time, repeal, amend, or modify its rules and regulations.

The adoption, repeal, amendment, or modification of such rules and regulations shall be made in accordance with the provisions of the Administrative Procedure Act.

SEC. 8. 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 is not licensed to practice architecture 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) Nothing contained in this section prohibits the use, in any advertisement, sign, card, or other device, of the term "building designer" if the person is registered as a building designer under this chapter.

SEC. 8.5. 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 is not licensed to practice architecture 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. 9. Section 5537.1 of the Business and Professions Code is amended to read:

5537.1. A structural engineer authorized to use that title under the provisions of Chapter 7 (commencing with Section 6700), insofar as he or she practices the profession for which he or she is registered,

is exempt from the provisions of this chapter.

SEC. 9.5. Section 5537.1 of the Business and Professions Code is amended to read:

5537.1. A structural engineer authorized to use that title under the provisions of Chapter 7 (commencing with Section 6700), insofar as he or she practices the profession for which he or she is registered, is exempt from the provisions of this chapter, except that a structural engineer may not use the title "architect," unless he or she holds a license as required in this chapter.

SEC. 10. Section 5537.3 of the Business and Professions Code is amended and renumbered to read:

5537.4. A professional engineer registered to practice engineering under the provisions of Chapter 7 (commencing with Section 6700), insofar as he or she practices the profession for which he or she is registered, is exempt from the provisions of this chapter.

SEC. 10.5. Section 5537.3 of the Business and Professions Code is amended and renumbered to read:

5537.4. A professional engineer registered to practice engineering under the provisions of Chapter 7 (commencing with Section 6700), insofar as he or she practices the profession for which he or she is registered, is exempt from the provisions of this chapter, except that a professional engineer may not use the title "architect," unless he or she holds a license as required in this chapter.

SEC. 11. Section 5537.4 of the Business and Professions Code is amended and renumbered to read:

5537.5. A civil engineer authorized to use that title under the provisions of Chapter 7 (commencing with Section 6700), insofar as he or she practices the profession for which he or she is registered, is exempt from the provisions of this chapter.

SEC. 11.5. Section 5537.4 of the Business and Professions Code is amended and renumbered to read:

5537.5. A civil engineer authorized to use that title under the provisions of Chapter 7 (commencing with Section 6700), insofar as he or she practices the profession for which he or she is registered, is exempt from the provisions of this chapter, except that a civil engineer may not use the title "architect," unless he or she holds a license as required in this chapter.

SEC. 12. Section 5537.5 of the Business and Professions Code is amended and renumbered to read:

5537.6. A landscape architect registered under the provisions of Chapter 3.5 (commencing with Section 5615), insofar as he or she practices the profession for which he or she is registered, is exempt from the provisions of this chapter.

SEC. 12.5. Section 5537.5 of the Business and Professions Code is amended and renumbered to read:

5537.6. A landscape architect registered under the provisions of Chapter 3.5 (commencing with Section 5615), insofar as he or she practices the profession for which he or she is registered, is exempt from the provisions of this chapter, except that a landscape architect

may not use the title "architect," exclusive of the word "landscape," unless he or she holds a license as required in this chapter.

SEC. 13. Section 5537.6 of the Business and Professions Code is amended and renumbered to read:

5537.3. For the purposes of this chapter a contractor licensed under Chapter 9 (commencing with Section 7000) 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 or registered as a building designer under this chapter subject to the limitations of Section 5500.3, or a professional or civil engineer registered under the provisions of Chapter 7 (commencing with Section 6700), insofar as the professional or civil engineer practices the profession for which he or she is registered.

SEC. 13.5. Section 5537.6 of the Business and Professions Code is amended and renumbered to read:

5537.3. For the purposes of this chapter a contractor, licensed under Chapter 9 (commencing with Section 7000), 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 registered under the provisions of Chapter 7 (commencing with Section 6700), insofar as the professional or civil engineer practices the profession for which he or she is registered.

SEC. 14. Section 5551 of the Business and Professions Code is amended to read:

5551. If the applicant's examination is satisfactory, and if no charges of having resorted to deception in obtaining the license, or any other violation of the provisions of this chapter have been filed with the board, upon the payment of the license fee fixed by this chapter, the board shall issue a license to the applicant showing that the person named therein is entitled to practice architecture in this state, in accordance with the provisions of this chapter.

SEC. 15. Section 5552 of the Business and Professions Code is amended to read:

5552. The applicant for a license to practice architecture shall:

(a) Not have committed acts or crimes constituting grounds for denial of a license under Section 480.

(b) Furnish evidence of having completed eight years of training and educational experience in architectural work. A five-year degree from a school of architecture approved by the board shall be deemed equivalent to five years of training and educational experience in architectural work.

SEC. 16. Section 5553 of the Business and Professions Code is

amended to read:

5553. Issuance of a license may be denied if evidence is received by the board of the commission or doing by the applicant of any act which, if committed or done by the holder of a license, would be grounds for the suspension or revocation of that license. The proceedings under this section shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 17. Section 5555 of the Business and Professions Code is amended to read:

5555. Licenses to practice architecture remain in full force until revoked or suspended for cause, or until they expire, as provided in this chapter.

SEC. 18. Section 5557 of the Business and Professions Code is amended to read:

5557. A duplicate license to practice architecture, replacing one which has been lost, destroyed, or mutilated, may be issued subject to the rules and regulations of the board. The duplicate license fee fixed by this chapter shall be charged for that issuance.

SEC. 19. Section 5560 of the Business and Professions Code is amended to read:

5560. The board may upon its own motion, and shall upon the verified complaint in writing of any person, investigate the actions of any architect and may temporarily suspend for a period not exceeding one year, or permanently revoke, the license of any architect who is guilty of, or commits any one or more of, the acts or omissions constituting grounds for disciplinary action under this chapter.

SEC. 20. Section 5561 of the Business and Professions Code is amended to read:

5561. All accusations against licensees charging the holder of a license issued under this chapter with the commission of any act constituting a cause for disciplinary action shall be filed with the board within five years after the board discovers, or through the use of reasonable diligence should have discovered, the act or omission alleged as the ground for disciplinary action, whichever occurs first, but not more than 10 years after the act or omission alleged as the ground for disciplinary action. However, with respect to an accusation alleging a violation of Section 5579, the accusation may be filed within three years after the discovery by the board of the alleged facts constituting the fraud or misrepresentation prohibited by Section 5579.

SEC. 21. Section 5561.5 of the Business and Professions Code is amended to read:

5561.5. The proceedings for the suspension or revocation of licenses under this article shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

SEC. 22. Section 5565 of the Business and Professions Code is amended to read:

5565. The decision may:

(a) Provide for the immediate complete suspension by the holder of the license of all operations as an architect during the period fixed by the decision.

(b) Permit the holder of the license to complete any or all contracts for the performance of architectural services shown by evidence taken at the hearing to be then uncompleted.

(c) Impose upon the holder of the license compliance with such specific conditions as may be just in connection with his or her operations as an architect disclosed at the hearing and may further provide that until those conditions are complied with no application for restoration of the suspended or revoked license shall be accepted by the board.

(d) Assess a fine not in excess of five thousand dollars ($5,000) against the holder of a license for any of the causes specified in Section 5577. A fine may be assessed in lieu of, or in addition to, a suspension or revocation. All fines collected pursuant to this subdivision shall be deposited to the credit of the California State Board of Architectural Examiners Fund.

SEC. 23. Section 5566.1 of the Business and Professions Code is amended to read:

5566.1. (a) The board shall promulgate regulations covering the assessment of civil penalties under this article which give due consideration to the appropriateness of the penalty with respect to the following factors:

(1) The gravity of the violation.

(2) The good faith of the individual being charged.

(3) The history of previous violations.

(b) In no event shall the civil penalty for each violation listed in the citation issued be assessed in an amount greater than two thousand dollars ($2,000).

SEC. 24. Section 5570 of the Business and Professions Code is amended to read:

5570. In any proceeding for review by a court, the court may, in its discretion, upon the filing of a proper bond by the holder of the license in an amount to be fixed by the court, guaranteeing the compliance by the holder of the license with specific conditions imposed upon him or her by the board's decision, if any, permit the holder of the license to continue to practice as an architect pending entry of judgment by the court in the case. There shall be no stay of the board's decision pending an appeal or review of any proceeding unless the appellant or applicant for review shall file a bond in all respects conditioned as, and similar to, the bond required to stay the effect of the board's decision in the first instance.

SEC. 25. Section 5573 of the Business and Professions Code is amended to read:

5573. After suspension of a license upon any of the grounds set

forth in this chapter, the board may reinstate the license upon proof of compliance by the architect with all provisions of the decision as to reinstatement or, in the absence of that decision or any provisions therein as to reinstatement, in the sound discretion of the board. A license which has been suspended is subject to expiration and shall be renewed as provided in this chapter, but that renewal does not entitle the holder of the license, while the license remains suspended and until it is reinstated, to practice architecture, or to engage in any other activity or conduct in violation of the order or judgment by which the license was suspended.

A revoked license is subject to expiration as provided in this chapter, but it may not be renewed. If it is reinstated after its expiration, the holder of the license, as a condition precedent to its reinstatement, shall pay a reinstatement fee in an amount equal to the renewal fee in effect on the last regular renewal date before the date on which it is reinstated, plus the delinquency fee, if any, accrued at the time of its revocation.

SEC. 26. Section 5577 of the Business and Professions Code is amended to read:

5577. The conviction of a crime substantially related to the qualifications, functions, and duties of an architect by the holder of a license constitutes a ground for disciplinary action. The record of conviction, or a certified copy thereof certified by the clerk of the court or by the judge in whose court the conviction is obtained, is conclusive evidence of the conviction.

A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The board may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, the judgment of conviction has been affirmed on appeal, or an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

SEC. 27. Section 5578 of the Business and Professions Code is amended to read:

5578. The fact that the holder of a license is practicing in violation of the provisions of this chapter constitutes a ground for disciplinary action.

SEC. 28. Section 5579 of the Business and Professions Code is amended to read:

5579. The fact that the holder of a license has obtained the license by fraud or misrepresentation, or that the person named in the license has obtained it by fraud or misrepresentation constitutes a ground for disciplinary action.

SEC. 29. Section 5580 of the Business and Professions Code is amended to read:

5580. The fact that the holder of a license is impersonating an architect or former architect of the same or similar name, or is practicing under an assumed, fictitious, or corporate name, constitutes a ground for disciplinary action. Nothing in this section shall prevent a corporation from furnishing or supplying by contract architectural services by and under the direct supervision of a licensed architect or architects.

SEC. 30. Section 5582 of the Business and Professions Code is amended to read:

5582. The fact that the holder of a license has aided or abetted in the practice of architecture any person not authorized to practice architecture under the provisions of this chapter, constitutes a ground for disciplinary action.

SEC. 31. Section 5582.1 of the Business and Professions Code is amended to read:

5582.1. The fact that the holder of a license has affixed his or her signature to plans, drawings, specifications, or other instruments of service which have not been prepared by him or her or in his or her office, or under his or her immediate and responsible direction, or has permitted his or her name to be used for the purpose of assisting any person, not an architect, to evade the provisions of this chapter, constitutes a ground for disciplinary action.

SEC. 32. Section 5583 of the Business and Professions Code is amended to read:

5583. The fact that, in the practice of architecture, the holder of a license has been guilty of fraud or deceit constitutes a ground for disciplinary action.

SEC. 33. Section 5584 of the Business and Professions Code is amended to read:

5584. The fact that, in the practice of architecture, the holder of a license has been guilty of negligence or willful misconduct constitutes a ground for disciplinary action.

SEC. 34. Section 5585 of the Business and Professions Code is amended to read:

5585. The fact that the holder of a license has been guilty of incompetency or recklessness in the construction of, or structural design of a building, constitutes a ground for disciplinary action.

SEC. 35. Section 5588 of the Business and Professions Code is amended to read:

5588. Every insurer providing professional liability insurance to a holder of a license, and every license holder, shall send a complete report to the board on any settlement or arbitration award in excess of five thousand dollars ($5,000) of a claim or action for damages caused by the license holder's fraud, deceit, negligence, incompetency, or recklessness in practice. The report shall be sent within 30 days after the settlement agreement has been consented to by the insured or within 30 days after service of the arbitration award on the parties.

SEC. 36. Section 5589 of the Business and Professions Code is

amended to read:

5589. Every settlement or arbitration award in excess of five thousand dollars ($5,000) of a claim or action for damages caused by the license holder's fraud, deceit, negligence, incompetency, or recklessness in practice when the license holder does not possess professional liability insurance as to that claim shall, within 30 days after any settlement agreement has been consented to by the license holder or 30 days after service of the arbitration award on the parties, be reported to the board. A complete report shall be made by appropriate means by the license holder or his or her counsel, with a copy of the communication to be sent to the claimant through his or her counsel if he or she is so represented, or directly if he or she is not. If, within 45 days of the conclusion of the settlement agreement or service of the arbitration award on the parties, counsel for the claimant, or if he or she is not represented by counsel, the claimant himself or herself, has not received a copy of the report, he or she shall himself or herself make a complete report. Failure of the license holder or claimant or, if represented by counsel, their counsel, to comply with the provisions of this section shall be a misdemeanor punishable by a fine of not less than one hundred dollars ($100) or more than one thousand dollars ($1,000). Knowing and intentional failure to comply with the provisions of this section, or conspiracy or collusion not to comply with the provisions of this section, or to hinder or impede any other person in the compliance with this section shall be a misdemeanor punishable by a fine of not less than ten thousand dollars ($10,000) or more than one hundred thousand dollars ($100,000).

SEC. 37. Section 5590 of the Business and Professions Code is amended to read:

5590. Within 10 days after a judgment by a court of this state that a license holder has committed a crime or is liable for any death, personal or property injury, or loss caused by the license holder's fraud, deceit, negligence, incompetency, or recklessness in practice, the clerk of the court which rendered the judgment shall report that fact to the board. However, if the judge who tried the matter finds that it does not relate to the defendant's professional competence or integrity, the judge may, by order, dispense with the requirement that the report be sent.

SEC. 38. Section 5600 of the Business and Professions Code is amended to read:

5600. All licenses issued or renewed under this chapter on or after August 31, 1985, shall expire at 12 p.m. on the birthday of the license holder in each odd-numbered year following the issuance or renewal of the license.

To renew an unexpired license, the license holder shall, before the time at which the license would otherwise expire, apply for renewal on a form prescribed by the board and pay the renewal fee prescribed by this chapter.

The board shall issue a receipt to each architect promptly upon

payment of the renewal fee.

SEC. 39. Section 5600.05 of the Business and Professions Code is repealed.

SEC. 40. 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.

The board shall also notify licensees of the availability of abstract and other informational materials on requirements for interior and exterior barrier-free design to permit access to and use of the architectural environment by the physically handicapped.

SEC. 41. Section 5600.2 of the Business and Professions Code is amended to read:

5600.2. (a) Except as otherwise provided in this chapter, a license which has expired may be renewed at any time within five years after its expiration on filing of application for renewal on a form prescribed by the board, and payment of the renewal fee in effect on the last preceding regular renewal date. If a license is renewed more than 30 days after its expiration, the license holder, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this chapter. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license shall continue in effect through the 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.

(b) Except as otherwise provided in this chapter, a registration which has expired may be renewed at any time after its expiration on filing an application for renewal on a form prescribed by the board, and payment of the renewal fee in effect on the last preceding regular renewal date. If a registration is renewed more than 30 days after its expiration, the registration holder, as a condition precedent to renewal, shall also pay the delinquency fee provided 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 registration 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.

SEC. 41.5. Section 5600.2 of the Business and Professions Code is amended to read:

5600.2. Except as otherwise provided in this chapter, a license which has expired may be renewed at any time within five years after its expiration on filing of application for renewal on a form prescribed by the board, and payment of the renewal fee in effect

on the last preceding regular renewal date. If a license is renewed more than 30 days after its expiration, the license holder, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this chapter. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license shall continue in effect through the 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.

SEC. 42. Section 5600.3 of the Business and Professions Code is amended to read:

5600.3. A license which is not renewed within five years after its expiration may not be renewed, restored, reissued, or reinstated thereafter. The holder of the expired license may apply for and obtain a new license only if he or she pays all of the fees, and meets all of the requirements set forth in this chapter for obtaining an original license, except as follows:

(a) An examination shall not be required if the expired license was issued without an examination.

(b) An examination shall not be required if the holder of the expired license retired from the practice of architecture before October 1, 1961, and notified the board in writing before October 1, 1961, of his or her retirement.

(c) Examination may be waived by the board if it finds that with due regard for the public interest, the holder of the expired license is qualified to practice architecture.

(d) The holder of the expired license shall not be required to meet the qualifications set forth in this chapter relating to education.

The board may, by regulation, authorize the waiver or refund of all or any part of the application fee paid by a person to whom a license is issued without an examination under this section.

SEC. 43. Section 5604 of the Business and Professions Code is amended to read:

5604. The fees prescribed by this chapter for architect applicants or architect license holders shall be fixed by the board as follows:

(a) The application fee for any section of the examination at not to exceed fifty dollars ($50). However, if the National Council of Architectural Boards' examination is used by the board, the application fee for any section of the examination shall not exceed the board's actual cost for obtaining and administrating the section of the examination to a maximum of fifty dollars ($50).

(b) The fee for an original license at an amount equal to the renewal fee in effect for the last regular renewal period before the date on which the license is issued, except that, if the license is issued less than one year before the date on which it will expire, then the fee shall be fixed at an amount equal to 50 percent of the renewal fee in effect for the last regular renewal period before the date on which the license is issued. The board may, by appropriate regulation,

provide for the waiver or refund of the fee for an original license if the license is issued less than 45 days before the date on which it will expire.

(c) The fee for an application for reciprocity at not to exceed one hundred dollars ($100).

(d) The fee for a duplicate license at not to exceed fifteen dollars ($15).

(e) The renewal fee at not to exceed one hundred dollars ($100).

(f) The delinquency fee at not to exceed 50 percent of the renewal fee.

SEC. 44. Section 5610 of the Business and Professions Code is amended to read:

5610. An architectural corporation is a corporation which is licensed with the California State Board of Architectural Examiners and has a currently effective license from the board pursuant to the Moscone-Knox Professional Corporation Act, as contained in Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code, and this article. Subject to all applicable statutes, rules, and regulations, an architectural corporation is entitled to practice architecture. With respect to an architectural corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act is the California State Board of Architectural Examiners.

SEC. 45. Section 5610.1 of the Business and Professions Code is amended to read:

5610.1. An applicant for licensure as an architectural corporation shall supply to the board all necessary and pertinent documents and information requested by the board concerning the applicant's plan of operation. The board may provide forms of application. If the board finds that the corporation is duly organized and existing pursuant to the General Corporation Law, that each officer, director, shareholder, and each employee who will render professional services is a licensed person as defined in the Moscone-Knox Professional Corporation Act, and that from the application it appears that the affairs of the corporation will be conducted in compliance with law and the rules and regulations of the board, the board shall, on payment of the license fee in an amount it may determine, issue a license. The application shall be signed and verified by an officer of the corporation.

SEC. 46. Section 5610.6 of the Business and Professions Code is amended to read:

5610.6. An architectural corporation shall not do or fail to do any act the doing of which or the failure to do which would constitute unprofessional conduct under any statute, rule, or regulation now or hereafter in effect. In the conduct of its practice, it shall observe and be bound by those statutes, rules, and regulations to the same extent as a person holding a license under Section 5551. The board shall have the same powers of suspension, revocation, and discipline against an architectural corporation as are now or hereafter authorized by

Section 5560, or by any other similar statute against individual licensees. However, proceedings against an architectural corporation shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

SEC. 47. Section 5610.7 of the Business and Professions Code is amended to read:

5610.7. The board shall formulate and enforce rules and regulations to carry out the purposes and objectives of this article, including rules and regulations requiring (a) that the articles of incorporation or bylaws of an architectural corporation shall include a provision whereby the capital stock of the corporation owned by a disqualified person (as defined in the Moscone-Knox Professional Corporation Act), or a deceased person, shall be sold to the corporation or to the remaining shareholders of the corporation within the time as those rules and regulations may provide, and (b) that an architectural corporation, as a condition of obtaining a license pursuant to the Moscone-Knox Professional Corporation Act and this article, shall provide adequate security by insurance or otherwise for claims against it by its clients arising out of the rendering of professional services.

SEC. 48. Section 3.5 of this bill incorporates amendments to Section 5515 of the Business and Professions Code proposed by both this bill and SB 790. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 5515 of the Business and Professions Code, and (3) this bill is enacted after SB 790, in which case Section 3 of this bill shall not become operative.

SEC. 49. Section 6 of this bill, which amends Section 5524 of the Business and Professions Code, shall not become operative if (1) SB 790 is enacted and becomes effective on January 1, 1986, (2) SB 790 amends Section 5514 or Sections 5514 and 5524 of the Business and Professions Code, and (3) this bill is enacted after SB 790.

SEC. 50. Section 8.5 of this bill incorporates amendments to Section 5536 of the Business and Professions Code proposed by both this bill and AB 2196. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 5536 of the Business and Professions Code, and (3) this bill is enacted after AB 2196, in which case Section 8 of this bill shall not become operative.

SEC. 51. Section 9.5 of this bill incorporates amendments to Section 5537.1 of the Business and Professions Code proposed by both this bill and SB 790. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 5537.1 of the Business and Professions Code, and (3) this bill is enacted after SB 790, in which case Section 9 of this bill shall not become operative.

SEC. 52. Section 10.5 of this bill incorporates amendments to

Section 5537.3 of the Business and Professions Code proposed by both this bill and SB 790. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 5537.3 of the Business and Professions Code, and (3) this bill is enacted after SB 790, in which case Section 10 of this bill shall not become operative.

SEC. 53. Section 11.5 of this bill incorporates amendments to Section 5537.4 of the Business and Professions Code proposed by both this bill and SB 790. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 5537.4 of the Business and Professions Code, and (3) this bill is enacted after SB 790, in which case Section 11 of this bill shall not become operative.

SEC. 54. Section 12.5 of this bill incorporates amendments to Section 5537.5 of the Business and Professions Code proposed by both this bill and SB 790. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 5537.5 of the Business and Professions Code, and (3) this bill is enacted after SB 790, in which case Section 12 of this bill shall not become operative.

SEC. 55. (a) Section 13.5 of this bill incorporates amendments to Section 5537.6 of the Business and Professions Code proposed by both this bill and AB 2196. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 5537.6 of the Business and Professions Code, and (3) this bill is enacted after AB 2196, in which case Section 13 of this bill shall not become operative.

(b) However, neither Section 13 nor Section 13.5 of this bill shall become operative if (1) SB 790 is enacted and becomes effective on January 1, 1986, (2) SB 790 repeals Section 5537.6 of the Business and Professions Code, and (3) this bill is enacted after SB 790.

SEC. 56. Section 41.5 of this bill incorporates amendments to Section 5600.2 of the Business and Professions Code proposed by both this bill and AB 2196. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 5600.2 of the Business and Professions Code, and (3) this bill is enacted after AB 2196, in which case Section 41 of this bill shall not become operative.

CHAPTER 1224

An act to amend Sections 31100 and 31101 of the Public Resources Code, relating to the coastal resources.

[Approved by Governor September 29, 1985 Filed with Secretary of State September 30, 1985]

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

SECTION 1. Section 31100 of the Public Resources Code is amended to read:

31100. There is in the Resources Agency the State Coastal Conservancy, consisting of the following seven members:

(a) The chairperson of the commission.

(b) The Secretary of the Resources Agency.

(c) The Director of Finance.

(d) Four members of the public, of which two shall be appointed by the Governor, one shall be appointed by the Senate Committee on Rules, and one shall be appointed by the Speaker of the Assembly. Of the members appointed by the Governor, not more than one may be an elected official of a local government, and the official shall have been elected to an office in a local government whose territory is located wholly or partially in the coastal zone.

Except for members appointed pursuant to subdivision (d), the members of the conservancy may designate one of their employees to serve on the conservancy in their absence.

SEC. 2. Section 31101 of the Public Resources Code is amended to read:

31101. (a) The members appointed under subdivisions (a) and (d) of Section 31100 shall serve for a term of four years. However, if a member is appointed under subdivision (d) by reason of his or her status as a locally elected official, his or her membership shall cease 60 days after his or her term of office as a locally elected official ceases, and the Governor may appoint another person to complete the remainder of his or her term. Any person appointed under subdivision (d) shall not be disqualified for membership and may complete his or her term in the event he or she is elected to a local office after his or her appointment.

(b) Members appointed under subdivisions (a) and (d) of Section 31100 shall be compensated for attendance at regular meetings of the conservancy at the rate of one hundred dollars ($100) per day, and shall be reimbursed for the actual and necessary expenses, including traveling expenses, incurred in the performance of their duties.

CHAPTER 1225

An act to amend Section 46201 of the Education Code, relating to apportionments.

[Approved by Governor September 29, 1985. Filed with Secretary of State September 30, 1985]

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

SECTION 1. Section 46201 of the Education Code is amended to read:

46201. (a) In each of the 1984–85, 1985–86, and 1986–87 fiscal years, for each school district 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 twenty dollars ($20) per unit of current year second principal apportionment regular average daily attendance in kindergarten and grades 1 to 8, inclusive, and forty dollars ($40) per unit of current year second principal apportionment regular average daily attendance in grades 9 to 12, inclusive. This section shall not apply to adult average daily attendance, the average daily attendance for pupils attending summer school, alternative school, regional occupational centers and programs, continuation high schools, or opportunity schools, and the attendance of pupils while participating in community college or independent study programs.

(1) In the 1984–85 fiscal year, for kindergarten and each of grades 1 to 12, inclusive, the sum of subparagraphs (A) and (B):

(A) The number of instructional minutes offered at that grade level in the 1982–83 fiscal year.

(B) One-third of the difference between the number of minutes specified for that grade level in paragraph (3) and the number of instructional minutes offered at that grade level in the 1982–83 fiscal year.

(2) In the 1985–86 fiscal year, for kindergarten and each of grades 1 to 12, inclusive, the sum of subparagraphs (A) and (B):

(A) The number of instructional minutes offered at that grade level in the 1982–83 fiscal year.

(B) Two-thirds of the difference between the number of minutes specified for that grade level in paragraph (3) and the number of instructional minutes offered at that grade level in the 1982–83 fiscal year.

(3) 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 no less than six class periods each day in grades 9 to 12, inclusive, except as otherwise provided in paragraph (4).

(4) If the school district demonstrates to the State Board of Education that its program for grades 9 to 12, inclusive, will offer to each student the equivalent of 24 course years of instruction, the board may, pursuant to Article 3 (commencing with Section 33050) of Chapter 1 of Part 20, waive the requirement of subparagraph (D) of paragraph (3) that the designated number of annual instructional minutes be provided in no less than six class periods each day in

grades 9 to 12, inclusive. Nothing in this Section is intended to require a school to adopt a class period format if it currently does not have that format, provided that it offers each student the equivalent of 24 course years of instruction for grades 9 to 12, inclusive.

(b) If any of the amounts of instructional time specified in paragraph (3) of subdivision (a) is a lesser number of minutes for that grade level than actually provided by the district in the same grade in the 1982–83 fiscal year, the 1982–83 fiscal year number of minutes for that grade level shall instead be the requirement for the purposes of subdivision paragraphs (1), (2), and (3) of (a).

(c) Each school district which 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 district's base revenue limit per unit of average daily attendance.

(d) For any school district which receives an apportionment pursuant to subdivision (a) in the 1984–85 fiscal year and which reduces the amount of instructional time offered below the minimum amounts specified in paragraph (1) of subdivision (a) in the 1985–86 fiscal year or any fiscal year thereafter, the Superintendent of Public Instruction shall reduce the base revenue limit per unit of average daily attendance for the fiscal year in which the reduction occurs by an amount attributable to the increase in the 1985–86 fiscal year base revenue limit per unit of average daily attendance pursuant to subdivision (c), as adjusted in the 1985–86 fiscal year and fiscal years thereafter.

For each school district which receives an apportionment pursuant to subdivision (a) in the 1985–86 fiscal year and which reduces the amount of instructional time offered below the minimum amounts specified in paragraph (2) of subdivision (a) in the 1986–87 fiscal year or any fiscal year thereafter, the Superintendent of Public Instruction shall reduce the base revenue limit per unit of average daily attendance for the fiscal year in which the reduction occurs by an amount attributable to the increase in the 1986–87 fiscal year base revenue limit per unit of average daily attendance pursuant to subdivision (c), as adjusted in the 1986–87 fiscal year and fiscal years thereafter.

For each school district which receives an apportionment pursuant to subdivision (a) in the 1986–87 fiscal year and which reduces the amount of instructional time offered below the minimum amounts specified in paragraph (3) of subdivision (a) in the 1987–88 fiscal year or any fiscal year thereafter, the Superintendent of Public Instruction shall reduce the base revenue limit per unit of average daily attendance for the fiscal year in which the reduction occurs by an amount attributable to the increase in the 1987–88 fiscal year base revenue limit per unit of average daily attendance pursuant to subdivision (c), as adjusted in the 1987–88 fiscal year and fiscal years thereafter.

As used in this section, "class period" means an amount of uninterrupted instructional time of not less than 45 minutes.

SEC. 2. Section 46201 of the Education Code is amended to read:

46201. (a) In each of the 1984–85, 1985–86, and 1986–87 fiscal years, for each school district which certifies to the Superintendent of Public Instruction that it offers at least the amount of instructional time specified in this subdivision at a grade level or levels, the Superintendent of Public Instruction shall determine an amount equal to twenty dollars ($20) per unit of current year second principal apportionment regular average daily attendance in kindergarten and grades 1 to 8, inclusive, and forty dollars ($40) per unit of current year second principal apportionment regular average daily attendance in grades 9 to 12, inclusive. This section shall not apply to adult average daily attendance, the average daily attendance for pupils attending summer school, alternative schools, regional occupational centers and programs, continuation high schools, or opportunity schools, and the attendance of pupils while participating in community college or independent study programs.

(1) In the 1984–85 fiscal year, for kindergarten and each of grades 1 to 12, inclusive, the sum of subparagraphs (A) and (B):

(A) The number of instructional minutes offered at that grade level in the 1982–83 fiscal year.

(B) One-third of the difference between the number of minutes specified for that grade level in paragraph (3) and the number of instructional minutes offered at that grade level in the 1982–83 fiscal year.

(2) In the 1985–86 fiscal year, for kindergarten and each of grades 1 to 12, inclusive, the sum of subparagraphs (A) and (B):

(A) The number of instructional minutes offered at that grade level in the 1982–83 fiscal year.

(B) Two-thirds of the difference between the number of minutes specified for that grade level in paragraph (3) and the number of instructional minutes offered at that grade level in the 1982–83 fiscal year.

(3) 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 no less than six class periods each day in grades 9 to 12, inclusive, except as otherwise provided in paragraph (4).

(4) If the school district demonstrates to the State Board of Education that its program for grades 9 to 12, inclusive, will offer to each student the equivalent of 24 course years of instruction, the board may, pursuant to Article 3 (commencing with Section 33050) of Chapter 1 of Part 20, waive the requirement of subparagraph (D) of paragraph (3) that the designated number of annual instructional minutes be provided in no less than six class periods each day in grades 9 to 12, inclusive. Nothing in this Section is intended to require a school to adopt a class period format if it currently does not have that format, provided that it offers each student the equivalent

of 24 course years of instruction for grades 9 to 12, inclusive.

(5) For any school site at which programs are operated in more than one of the grade levels enumerated in subparagraph (B) or (C) of paragraph (3), the school district may calculate a weighted average of minutes for those grade levels at that school site for purposes of making the certification authorized by this subdivision.

(b) If any of the amounts of instructional time specified in paragraph (3) of subdivision (a) is a lesser number of minutes for that grade level than actually provided by the district in the same grade in the 1982–83 fiscal year, the 1982–83 fiscal year number of minutes for that grade level shall instead be the requirement for the purposes of subdivision paragraphs (1), (2), and (3) of (a).

(c) For any school district which receives an apportionment pursuant to subdivision (a) in the 1984–85 fiscal year and which reduces the amount of instructional time offered below the minimum amounts specified in paragraph (1) of subdivision (a) in the 1985–86 fiscal year or any fiscal year thereafter, the Superintendent of Public Instruction shall reduce the base revenue limit per unit of average daily attendance for the fiscal year in which the reduction occurs by an amount attributable to the increase in the 1985–86 fiscal year base revenue limit per unit of average daily attendance pursuant to paragraph 4 of subdivision (b) of Section 42238, as adjusted in the 1985–86 fiscal year and fiscal years thereafter.

For each school district which receives an apportionment pursuant to subdivision (a) in the 1985–86 fiscal year and which reduces the amount of instructional time offered below the minimum amounts specified in paragraph (2) of subdivision (a) in the 1986–87 fiscal year or any fiscal year thereafter, the Superintendent of Public Instruction shall reduce the base revenue limit per unit of average daily attendance for the fiscal year in which the reduction occurs by an amount attributable to the increase in the 1986–87 fiscal year base revenue limit per unit of average daily attendance pursuant to paragraph 4 of subdivision (b) of Section 42238, as adjusted in the 1986–87 fiscal year and fiscal years thereafter.

For each school district which receives an apportionment pursuant to subdivision (a) in the 1986–87 fiscal year and which reduces the amount of instructional time offered below the minimum amounts specified in paragraph (3) of subdivision (a) in the 1987–88 fiscal year or any fiscal year thereafter, the Superintendent of Public Instruction shall reduce the base revenue limit per unit of average daily attendance for the fiscal year in which the reduction occurs by an amount attributable to the increase in the 1987–88 fiscal year base revenue limit per unit of average daily attendance pursuant to paragraph 4 of subdivision (b) of Section 42238, as adjusted in the 1987–88 fiscal year and fiscal years thereafter.

As used in this section, "class period" means an amount of uninterrupted instructional time of not less than 45 minutes.

SEC. 3. Section 2 of this bill incorporates amendments to Section

46201 of the Education Code proposed by both this bill and AB 2351. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 46201 of the Education Code, and (3) this bill is enacted after AB 2351, in which case Section 1 of this bill shall not become operative.

CHAPTER 1226

An act to amend and repeal Section 10349 of, and to add and repeal Section 10310.5 of, the Public Contract Code, relating to state contracting.

[Approved by Governor September 29, 1985 Filed with Secretary of State September 30, 1985]

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

SECTION 1. Section 10310.5 is added to the Public Contract Code, to read:

10310.5. (a) The director shall establish training programs to prepare state agency employees authorized to make purchases of equipment, supplies, and materials to effectively carry out their responsibilities. The training programs shall be designed to include planning for an agency's needs and the assessment of its ability to store standard items, how to use the state warehouses and identify vendors with state master contracts, how to anticipate the length of time needed for items to be delivered by state warehouses, state vendors or prison industries, and how to work with the Controller's office to ensure that vendors are paid within the period prescribed in Section 926.15 of the Government Code, which also sets forth a penalty for late payments. The training shall commence no later than June 1, 1986.

The employee in each state agency who has the primary responsibility for purchasing equipment, supplies, and materials shall receive the highest priority for enrollment in the program. Within available resources, the training program shall be made available to other employees.

(b) The Department of General Services shall report on the effectiveness of the training to the Governor and to the Legislative Analyst by August 31, 1988. The director's report shall include the number of employees trained, the departments represented by the employees trained, an evaluation by the participants of the value of the training, and an assessment of measurable improvements in purchasing transactions by state agency personnel as determined by a periodic review of such transactions for timeliness and accuracy of deliveries. In addition, the Department of General Services may report on any changes in the incidence of late payments to vendors which result in penalties as authorized in Section 926.15 of the

Government Code.

(c) The Legislative Analyst shall transmit the report and his or her evaluation of the effectiveness of the training program to the Legislature during hearings on the 1989–90 annual Budget. In addition to information provided by the department, the Legislative Analyst shall contact a representative number of state agencies which participated in the training program to determine its effectiveness, and shall base his or her evaluation on the department's report and the results of the agency sampling.

(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 enacted before January 1, 1991, deletes or extends that date.

SEC. 2. Section 10349 of the Public Contract Code is amended to read:

10349. (a) The Department of Personnel Administration shall establish a program for training state agency contracting personnel in contract administration and contract management. The cost of training state agency contracting personnel shall be paid by state agencies out of their appropriations for personnel training. The Department of Personnel Administration shall, prior to establishing the training program required by this section, consult with the Department of General Services concerning the training curriculum and the development of a training manual on contract administration.

The employee in each state agency who has the primary responsibility for preparing and administering contracts shall receive the highest priority for enrollment in the program. Within available resources, the training program shall be made available to other employees.

(b) It is the intent of the Legislature that the employee in each state agency who has the primary responsibility for preparing and administering contracts shall receive training which includes all of the following: preparation of estimates, pertinent statutes and regulations, standard business practices regarding contracts and competitive bidding, and standard language and clauses used in contracts approved by the department.

(c) It is the further intent of the Legislature that the Department of General Services compile in a single location of the State Administrative Manual all standard language, terms, definitions, and clauses used in state agency contracts.

(d) The Department of General Services shall report to the Governor and to the Legislative Analyst on the training provided to state agency employees. This report shall be made no later than August 31, 1988. The report shall include, but need not be limited to, the number of employees trained, the state agencies represented by the employees trained, an evaluation by the participants of the value of the training, and an assessment of measurable improvements in contracts written and administered by state agency personnel, as determined by periodic review of contracts returned to state

agencies due to drafting errors.

(e) The Legislative Analyst shall transmit the report and his or her evaluation of the effectiveness of the training program to the Legislature during the hearings on the 1989–90 annual Budget. In addition to information provided by the Department of General Services, the Legislative Analyst shall contact a representative number of state agencies which participated in the training program to determine its effectiveness and shall base his or her evaluation on the Department of General Services' report and the results of the agency sampling.

(f) 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 of the Government Code, Section 10349, as added by Section 4 of Chapter 1231 of the Statutes of 1983, shall have the same force and effect as if this temporary provision had not been enacted.

CHAPTER 1227

An act to amend Sections 244.5 and 626.10 of, and to add Article 7 (commencing with Section 12650) to Chapter 6 of Title 2 of Part 4 of, the Penal Code, relating to dangerous weapons.

[Approved by Governor September 29, 1985 Filed with Secretary of State September 30, 1985]

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

SECTION 1. Section 244.5 of the Penal Code is amended to read:

244.5. (a) As used in this section, "stun gun" means any item, except a taser, used or intended to be used as either an offensive or defensive weapon that is capable of temporarily immobilizing a person by the infliction of an electrical charge.

(b) Every person who commits an assault upon the person of another with a stun gun or taser is guilty of a misdemeanor punishable by imprisonment in a county jail for a term not exceeding one year, or by fine not exceeding one thousand dollars ($1,000), or by both the fine and imprisonment.

(c) Every person who commits an assault upon the person of a peace officer or firefighter with a stun gun or taser, who knows or reasonably should know that the person is a peace officer or firefighter engaged in the performance of his or her duties, when the peace officer or firefighter is engaged in the performance of his or her duties, shall be punished by imprisonment in the state prison, or in a county jail, for a term not exceeding one year.

(d) This section shall not be construed to preclude or in any way

limit the applicability of Section 245 in any criminal prosecution.

SEC. 2. Section 626.10 of the Penal Code is amended to read:

626.10. (a) 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 this state, a person summoned by any such officer to assist in making arrests or preserving the peace while the person is actually engaged in assisting any such officer, or a member of the military forces of this state or the United States who is engaged in the performance of his or her duties, who brings or possesses any dirk, dagger, knife having a blade longer than 3½ inches, folding knife with a blade that locks into place, a razor with an unguarded blade, or a stun gun, as defined in subdivision (a) of Section 244.5, upon the grounds of, or within, any public school providing instruction in kindergarten or any of grades 1 through 12, inclusive, is guilty of a misdemeanor.

(b) 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 this state, a person summoned by any such officer to assist in making arrests or preserving the peace while the person is actually engaged in assisting any such officer, or a member of the military forces of this state or the United States who is engaged in the performance of his or her duties, who brings or possesses any dirk, dagger, or knife having a fixed blade longer than 3½ inches upon the grounds of, or within, any state university, state college, or community college is guilty of a misdemeanor.

(c) Subdivisions (a) and (b) shall not apply to any person who brings or possesses a knife having a blade longer than 3½ inches or a razor with an unguarded blade upon the grounds of, or within, a public school providing instruction in kindergarten or any of grades 1 through 12 or any state university, state college, or community college at the direction of a certificated or classified employee of the school for use in a school-sponsored activity or class.

(d) Subdivisions (a) and (b) do not apply to any person who brings or possesses a knife having a blade longer than 3½ inches or a razor with an unguarded blade upon the grounds of, or within, a public school providing instruction in kindergarten or any of grades 1 through 12, inclusive, or any state university, state college, or community college for a lawful purpose within the scope of the person's employment.

(e) Subdivision (b) shall not apply to any person who brings or possesses a knife having a fixed blade longer than 3½ inches upon the grounds of, or within, any state university, state college, or community college, for lawful use in or around a residence or residential facility located upon those grounds or for lawful use in food preparation or consumption.

(f) Any certificated or classified employee or school peace officer

of a public school providing instruction in kindergarten or any of grades 1 through 12, inclusive, may seize any of the weapons described in subdivision (a), and any certificated or classified employee or school peace officer of any state university, state college, or community college may seize any of the weapons described in subdivision (b) from the possession of any person upon the grounds of, or within, the school if he knows or has reasonable cause to know the person is prohibited from bringing or possessing the weapon upon the grounds of, or within, the school.

(g) Notwithstanding subdivision (a), any certificated or classified employee of a public school providing instruction in kindergarten or any of grades 1 through 12, may bring or possess a stun gun, as defined in subdivision (a) of Section 244.5, upon the grounds of, or within that public school, for use in self-defense.

SEC. 3. Article 7 (commencing with Section 12650) is added to Chapter 6 of Title 2 of Part 4 of the Penal Code, to read:

Article 7. Stun Guns

12650. "Stun gun" as used in this chapter shall include any item, except a taser, used or intended to be used as either an offensive or defensive weapon capable of temporarily immobilizing a person by the infliction of an electrical charge.

12651. Notwithstanding any other provision of law, any person may purchase, possess, or use a stun gun, subject to the following requirements:

(a) No person convicted of a felony or any crime involving an assault under the laws of the United States, of the State of California, or any other state, government, or country or convicted of misuse of a stun gun under Section 244.5, shall purchase, possess, or use stun guns.

(b) No person who is addicted to any narcotic drug shall purchase, possess, or use a stun gun.

(c) No person shall sell or furnish any stun gun to a minor unless the minor is at least 16 years of age and has the written consent of his or her parent or legal guardian.

Violation of this subdivision shall be a public offense punishable by a fifty dollar ($50) fine for the first offense. Any subsequent violation of this subdivision is a misdemeanor.

(d) No minor shall possess any stun gun unless the minor is at least 16 years of age and has the written consent of his or her parent or legal guardian.

12652. Each stun gun sold shall contain both of the following:

(a) The name of the manufacturer stamped on the stun gun.

(b) The serial number applied by the manufacturer.

12653. Unless otherwise specified, any violation of this article is a misdemeanor.

12654. Each stun gun sold in this state shall be accompanied by an instruction booklet.

Violation of this section shall be a public offense punishable by a fifty dollar ($50) fine for each weapon sold without the booklet.

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 1228

An act to amend Sections 25283, 25291, and 25299.1 of, and to add and repeal Section 25284.5 of, the Health and Safety Code, relating to hazardous substances, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1985 Filed with Secretary of State September 30, 1985]

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

SECTION 1. Section 25283 of the Health and Safety Code is amended to read:

25283. Every county shall implement this chapter pursuant to the regulations adopted by the board. A city may, by ordinance, assume responsibility for the implementation of this chapter pursuant to the regulations adopted by the board and, if so, shall have exclusive jurisdiction within the boundary of the city for the purposes of carrying out this chapter. A city which assumes responsibility for implementation of this chapter shall assume this responsibility on or before January 1, 1986, and shall provide notice of its program and consult with the county in which the city is located. A county shall designate a department, office, or other agency of that county as the local agency responsible for administering and enforcing this chapter, and a city which assumes responsibility for implementing this chapter shall also make a similar designation.

SEC. 2. Section 25284.5 is added to the Health and Safety Code, to read:

25284.5. (a) Notwithstanding Section 25284, a local agency may instead issue an interim permit if the local agency does not issue or refuse to issue the permit application submitted pursuant to Section 25286 within 30 days after the local agency receives the permit application. If an interim permit is issued, the local agency shall, on or before March 1, 1986, approve, modify and approve, or disapprove the monitoring program proposed in the permit application.

(b) Within six months after the local agency approves the monitoring system proposed in the application, the owner or operator of the underground storage tank for which the interim

permit has been issued shall install the approved monitoring system.

(c) The local agency shall, on or before September 1, 1986, either issue a permit pursuant to Section 25284 to the owner or operator of an underground storage tank granted an interim permit pursuant to this section, if the approved monitoring system has been installed and the tank is otherwise in compliance with this chapter, or the local agency shall, on or before that date, refuse to issue the permit if the monitoring system has not been installed or if the tank is not otherwise in compliance with this chapter.

(d) During the period from the date of issuance of the interim permit until the permit is issued or refused, the interim permitholder shall not be held to be in violation of Sections 25284, 25291, and 25292.

(e) This section shall become inoperative on September 1, 1986, and as of January 1, 1987, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1987, deletes or extends the date on which it becomes inoperative and is repealed.

SEC. 3. Section 25291 of the Health and Safety Code is amended to read:

25291. Every underground storage tank installed after January 1, 1984, shall meet all of the following requirements:

(a) Be designed and constructed to provide primary and secondary levels of containment of the hazardous substances stored in it in accordance with the following performance standards:

(1) Primary containment shall be product-tight.

(2) Secondary containment shall be constructed to prevent structural weakening as a result of contact with any released hazardous substances, and also shall be capable of storing the hazardous substances for the maximum anticipated period of time necessary for the recovery of any released hazardous substance.

(3) In the case of an installation with one primary container, the secondary containment shall be large enough to contain at least 100 percent of the volume of the primary tank.

(4) In the case of multiple primary tanks, the secondary container shall be large enough to contain 150 percent of the volume of the largest primary tank placed in it, or 10 percent of the aggregate internal volume of all primary tanks, whichever is greater.

(5) If the facility is open to rainfall, then the secondary containment shall be able to additionally accommodate the volume of a 24-hour rainfall as determined by a 100-year storm history.

(6) Single-walled containers do not fulfill the requirement of an underground storage tank providing both a primary and a secondary containment. However, an underground storage tank with a primary container constructed with a double complete shell shall be deemed to have met the requirements for primary and secondary containment set forth in this section if the outer shell is constructed primarily of nonearthen materials, including, but not limited to, concrete, steel, and plastic, which provide structural support and a continuous leak detection system with alarm is located in the space between the shells; the system is capable of detecting the entry of

hazardous substances from the inner container into the space; and the system is capable of detecting water intrusion into the space from the outer shell.

(7) The design and construction of underground storage tanks for motor vehicle fuels storage need not meet the requirements of paragraphs (1) to (6), inclusive, if all of the following conditions exist:

(A) The primary containment construction is of glass fiber reinforced plastic, cathodically protected steel, or steel clad with glass fiber reinforced plastic.

(B) Any alternative primary containment is installed in conjunction with a system that will intercept and direct a leak from any part of the tank to a monitoring well to detect any release of motor vehicle fuels stored in the tank.

(C) The system designed to provide early leak detection and response, and to protect the groundwater from releases.

(D) The monitoring is in accordance with the alternative method identified in paragraph (4) of subdivision (b) of Section 25292.

(E) Pressurized piping systems connected to underground storage tanks used for the storage of motor vehicle fuels and monitored in accordance with paragraph (4) of subdivision (b) of Section 25292 also meet the requirements of this subdivision provided that the tank meets the conditions of subparagraphs (A) to (D), inclusive.

(b) Be designed and constructed with a monitoring system capable of detecting the entry of the hazardous substance stored in the primary containment into the secondary containment. If water could intrude into the secondary containment, a means of monitoring for water intrusion and for safely removing the water shall also be provided.

(c) When required by the local agency, a means of overfill protection for any primary tank, including an overfill prevention device or an attention-getting higher level alarm, or both. Primary tank filling operations of underground storage tanks containing motor vehicle fuels which are visually monitored and controlled by a facility operator satisfy the requirements of this subdivision.

(d) If different substances are stored in the same tank and in combination may cause a fire or explosion, or the production of flammable, toxic, or poisonous gas, or the deterioration of a primary or secondary container, then they shall be separated in both the primary and secondary containment so as to avoid potential intermixing.

(e) If water could enter into the secondary containment by precipitation or infiltration, the facility shall contain a means of removing the water by the owner or operator. This removal system shall also prevent uncontrolled removal of this water and provide for a means of analyzing the removed water for hazardous substance contamination and a means of disposing of the water, if so contaminated, at an authorized disposal facility.

(f) Before the underground storage tank is covered, enclosed, or

placed in use, the standard installation testing for requirements for underground storage systems specified in Section 2-7 of the Flammable and Combustible Liquids Code, adopted by the National Fire Protection Association, (NFPA 30) as amended and published in the respective edition of the Uniform Fire Code, shall be followed.

(g) Before the underground storage tank is placed in service, the underground storage systems shall be tested in operating condition using a precision test as defined in National Fire Protection Association Pamphlet 329, "Recommended Practice for Handling Underground Leakage of Flammable and Combustible Liquids," as amended, for proving the integrity of an underground storage tank.

(h) If the underground storage tank is designed to maintain a water level in the secondary containment, the tank shall be equipped with a safe method of removing any excess water to a holding facility and the owner or operator shall inspect the holding facility monthly for the presence of excess water overflow. If excess water is present in the holding facility, the permitholder shall provide a means to analyze the water for hazardous substance contamination and a means to dispose of the water, if so contaminated, at an authorized disposal facility.

SEC. 4. Section 25291 of the Health and Safety Code is amended to read:

25291. Every underground storage tank installed after January 1, 1984, shall meet all of the following requirements:

(a) Be designed and constructed to provide primary and secondary levels of containment of the hazardous substances stored in it in accordance with the following performance standards:

(1) Primary containment shall be product-tight.

(2) Secondary containment shall be constructed to prevent structural weakening as a result of contact with any released hazardous substances, and also shall be capable of storing the hazardous substances for the maximum anticipated period of time necessary for the recovery of any released hazardous substance.

(3) In the case of an installation with one primary container, the secondary containment shall be large enough to contain at least 100 percent of the volume of the primary tank.

(4) In the case of multiple primary tanks, the secondary container shall be large enough to contain 150 percent of the volume of the largest primary tank placed in it, or 10 percent of the aggregate internal volume of all primary tanks, whichever is greater.

(5) If the facility is open to rainfall, then the secondary containment shall be able to additionally accommodate the maximum volume of a 24-hour rainfall as determined by a 25-year storm history.

(6) Single-walled containers do not fulfill the requirement of an underground storage tank providing both a primary and a secondary containment. However, an underground storage tank with a primary container constructed with a double complete shell shall be deemed to have met the requirements for primary and secondary

containment set forth in this section if the outer shell is constructed primarily of nonearthen materials, including, but not limited to, concrete, steel, and plastic, which provide structural support and a continuous leak detection system with alarm is located in the space between the shells; the system is capable of detecting the entry of hazardous substances from the inner container into the space; and the system is capable of detecting water intrusion into the space from the outer shell.

(7) The design and construction of underground storage tanks for motor vehicle fuels storage need not meet the requirements of paragraphs (1) to (6), inclusive, if all of the following conditions exist:

(A) The primary containment construction is of glass fiber reinforced plastic, cathodically protected steel, or steel clad with glass fiber reinforced plastic.

(B) Any alternative primary containment is installed in conjunction with a system that will intercept and direct a leak from any part of the tank to a monitoring well to detect any release of motor vehicle fuels stored in the tank.

(C) The system designed to provide early leak detection and response, and to protect the groundwater from releases.

(D) The monitoring is in accordance with the alternative method identified in paragraph (4) of subdivision (b) of Section 25292.

(E) Pressurized piping systems connected to underground storage tanks used for the storage of motor vehicle fuels and monitored in accordance with paragraph (4) of subdivision (b) of Section 25292 also meet the requirements of this subdivision provided that the tank meets the conditions of subparagraphs (A) to (D), inclusive.

(b) Be designed and constructed with a monitoring system capable of detecting the entry of the hazardous substance stored in the primary containment into the secondary containment. If water could intrude into the secondary containment, a means of monitoring for water intrusion and for safely removing the water shall also be provided.

(c) When required by the local agency, a means of overfill protection for any primary tank, including an overfill prevention device or an attention-getting higher level alarm, or both. Primary tank filling operations of underground storage tanks containing motor vehicle fuels which are visually monitored and controlled by a facility operator satisfy the requirements of this subdivision.

(d) If different substances are stored in the same tank and in combination may cause a fire or explosion, or the production of flammable, toxic, or poisonous gas, or the deterioration of a primary or secondary container, then they shall be separated in both the primary and secondary containment so as to avoid potential intermixing.

(e) If water could enter into the secondary containment by precipitation or infiltration, the facility shall contain a means of removing the water by the owner or operator. This removal system

shall also prevent uncontrolled removal of this water and provide for a means of analyzing the removed water for hazardous substance contamination and a means of disposing of the water, if so contaminated, at an authorized disposal facility.

(f) Before the underground storage tank is covered, enclosed, or placed in use, the standard installation testing for requirements for underground storage systems specified in Section 2-7 of the Flammable and Combustible Liquids Code, adopted by the National Fire Protection Association, (NFPA 30) as amended and published in the respective edition of the Uniform Fire Code, shall be followed.

(g) Before the underground storage tank is placed in service, the underground storage systems shall be tested in operating condition using a precision test as defined in National Fire Protection Association Pamphlet 329, "Recommended Practice for Handling Underground Leakage of Flammable and Combustible Liquids," as amended, for proving the integrity of an underground storage tank.

(h) If the underground storage tank is designed to maintain a water level in the secondary containment, the tank shall be equipped with a safe method of removing any excess water to a holding facility and the owner or operator shall inspect the holding facility monthly for the presence of excess water overflow. If excess water is present in the holding facility, the permitholder shall provide a means to analyze the water for hazardous substance contamination and a means to dispose of the water, if so contaminated, at an authorized disposal facility.

SEC. 5. Section 25299.1 of the Health and Safety Code is amended to read:

25299.1. (a) Any city or county which prior to January 1, 1984, adopted an ordinance which, at a minimum met the requirements set forth in Sections 25284 and 25284.1, as they read on January 1, 1984, prior to being amended and renumbered, providing for double containment, monitoring of underground storage tanks and under which permits are issued therefor, is exempt from this chapter so long as the ordinance, as it may be amended, continues to meet the requirements of Sections 25284 and 25284.1, as they read on January 1, 1984, prior to being amended and renumbered.

Those local agencies which are exempted from this chapter pursuant to this subdivision shall submit to the board the application form and annual information specified by Section 25286 and shall submit a written report of any unauthorized release from an underground storage tank to the Office of Emergency Services within 10 working days from the time the local agency is notified of the unauthorized release. Every local agency exempted from this chapter, except a county of the fifth class and the cities within that county, shall, until January 1, 1990, collect and transmit to the board the surcharge specified in subdivision (b) of Section 25287.

(b) This chapter does not limit or abridge the authority of any city or county to adopt an ordinance requiring information, conducting investigations, inspections, or implementing and enforcing this

chapter.

SEC. 6. Section 4 of this bill incorporates amendments to Section 25291 of the Health and Safety Code proposed by both this bill and AB 1755. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1986, but this bill becomes operative first, (2) each bill amends Section 25291 of the Health and Safety Code, and (3) this bill is enacted after AB 1755, in which case Section 25291 of the Health and Safety Code, as amended by Section 3 of this bill, shall remain operative only until the operative date of AB 1755, at which time Section 4 of this bill shall become operative.

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:

Due to delays in the rulemaking process, and the need to extend the date for compliance with this chapter from July 1, 1985, to January 1, 1986, it is necessary that this act take effect immediately.

CHAPTER 1229

An act to add Sections 12669, 12669.1, and 12669.2 to the Water Code, and to amend Sections 7, 8, 22, 22(a), 23, 28, and 46 of, and to add Section 23.5 to, the Fresno Metropolitan Flood Control Act (Chapter 503 of the Statutes of 1955), relating to flood control, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1985 Filed with Secretary of State September 30, 1985]

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

SECTION 1. Section 12669 is added to the Water Code, to read:

12669. The plan of improvement for flood control and other purposes on the Fresno County Stream Group identified as the Redbank-Fancher Creeks Flood Control Project, except for the Redbank Creek Detention Basin, is hereby adopted and authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 98-147, at an estimated cost to the state of such sum as may be appropriated for state cooperation by the Legislature upon recommendation and advice of the department or Reclamation Board. If state bond act moneys are available for flood control purposes, the Legislature may appropriate those moneys for this project. This authorization shall not be deemed to confer preference on this project over the needs of other statewide programs in the appropriation of available funds. Funds shall be appropriated pursuant to this authorization only upon the act of Congress adopting and authorizing the project as substantially

described in House Document Numbered 98-147. The Legislature affirms the topographical and hydrological characteristics of the Fresno County Stream Group for which provision for participation in reservoirs has been made in Section 12868 and determines that the Redbank-Fancher Creeks Flood Control Project is a project on the Fresno County Stream Group, as defined and excepted in Section 12826. The department or Reclamation Board may loan the local agency the funds necessary to pay the local portion of the costs of the lands, easements, and rights-of-way, less the credit provided by Section 12585.3. The rate of interest on the loan shall be the current rate for the Pooled Money Investment Account. The department or Reclamation Board may pay 50 percent of the nonfederal capital costs of the recreation and fish and wildlife enhancement features of the project.

SEC. 2. Section 12669.1 is added to the Water Code, to read:

12669.1. The Fresno Metropolitan Flood Control District may, in lieu of the Reclamation Board, give assurances satisfactory to the Secretary of the Army that the local cooperation required by House Document Numbered 98-147 will be furnished in connection with the project for flood control adopted and authorized in Section 12669.

SEC. 3. Section 12669.2 is added to the Water Code, to read:

12669.2. The Fresno Metropolitan Flood Control District, in conjunction with the Department of the Army, may, in lieu of the Reclamation Board, execute the plans and project referred to in Section 12669 and may make modifications and amendments to the plans as may be necessary to execute the plans for the purposes of Chapter 1 (commencing with Section 12570) and this part.

SEC. 4. Section 7 of the Fresno Metropolitan Flood Control Act (Chapter 503 of the Statutes of 1955) is amended to read:

Sec. 7. (a) The objects and purposes of this act and of the district shall be to provide for (1) the control of flood, storm, and other waste waters of or within the district, including waters which arise outside the district and which flow or drain into or through the district; (2) the protection from damage by flood, storm, or waste waters of private property and of public highways and other public property within the district; and (3) the conservation of flood, storm, waste, and other surface waters for beneficial and useful purposes by spreading, storing, retaining, or causing those waters, or any part thereof, to percolate into the soil within or without the district or the saving and conservation in any manner of any or all of those waters.

(b) The land within the district, and each drainage area and zone thereof, shall be conclusively presumed to benefit from the continued operation and maintenance of the district (1) in relation to the value of the land and the improvements thereon or (2), in the alternative, in relation to the use to which the land may be put and the services and benefits provided, and shall be subject to assessment as provided by this act. Nothing in this subdivision shall abrogate the findings required by Sections 31 and 38 of this act.

SEC. 5. Section 8 of the Fresno Metropolitan Flood Control Act

(Chapter 503 of the Statutes of 1955) is amended to read:

Sec. 8. The district shall be and constitute a public corporation, and as such has the powers enumerated in this act, all powers necessarily or reasonably implied therefrom, and all powers necessarily or reasonably implied from the creation and existence of the district. The powers include the following:

1. To have perpetual succession.

2. To sue and be sued in the name of the district in all actions and proceedings in all courts and tribunals of competent jurisdiction.

3. To have and exercise the power of eminent domain.

4. To take by grant, exchange, purchase, including for cash, promissory note secured by purchase money deed of trust, assumption of existing indebtedness, or any combination thereof, gift, lease, devise, or otherwise and to hold, use and enjoy real or personal property of every kind within or without the district necessary to or convenient for the full exercise of its powers.

5. To acquire lands, rights-of-way, easements, privileges, and property of every kind and nature, to construct, maintain, and operate any or all works or improvements within or without the district necessary or proper to carry out any of the objects or purposes of this act, and to complete, extend, add to, repair, or otherwise improve any works or improvements acquired by it as herein authorized, or, pursuant to a contract authorized by paragraph 10 of this section, any works or improvements owned or constructed by the City of Fresno, the City of Clovis, the County of Fresno, Fresno Irrigation District, or any other public agency, or any two or more thereof, and used in whole or in part for flood control, storm drainage, or water conservation purposes.

6. To levy or cause to be levied an assessment tax for the purpose of providing funds for the district and for paying any obligations thereof to carry out any of the objects and purposes of this act, all of which are of benefit to the lands and improvements of the district.

7. To levy or cause to be levied assessments or benefit assessments as provided by the Water Code, the Revenue and Taxation Code, the Government Code, or the Streets and Highways Code.

8. To incur indebtedness and to issue notes, bonds, or other evidence of such indebtedness in the manner herein provided.

9. To make contracts and to employ appraisers, consultants, attorneys, engineers, and other technical advisers and all employees necessary or convenient for the administration of the district, the maintenance and operation of any works under its jurisdiction, and the planning of any works or construction under this act.

10. To contract with the City of Fresno, County of Fresno, Fresno Irrigation District, or any other public agency or any public utility for the use of any rights-of-way, easements, lands, works, or property owned by any thereof which are necessary, convenient, or useful to the district, or necessary or convenient for the construction or operation of any flood control works or storm drain works proposed to be financed by the flood control district; to contract with any of

such public agencies for the acquisition or construction by such public agency of any flood control or storm drain works financed by the district, or the maintenance and operation thereof, or for any or all of the foregoing, and the flood control district may carry out any or all of its powers either separately or in conjunction with one or more of the public agencies, and may make any contract or lease or accept any conveyance of property necessary or convenient for the accomplishment of the purposes of the flood control district. The powers granted by this subparagraph shall be liberally construed.

11. To develop property for recreational uses and purposes in connection with the use thereof for control or conservation of waters or to lease to or contract with individuals or public or private agencies for use or for development and use thereof for the recreational purposes.

12. To sell or dispose of real property, rights to surface or groundwaters, or any interest therein or part thereof whenever, in the judgment of two-thirds of the board of directors, the real property, water rights, or interest therein or part thereof is no longer required for the purposes of the district and to pay any compensation received therefor into the general fund of the district and use the same for the purposes of this act. To lease or let real property or rights to surface or groundwaters and sell, dispose of, lease or let personal property, or any interest therein or part thereof, whenever, in the judgment of a majority of all the members of the board of directors, the real or personal property or interest therein or part thereof is no longer required for the purposes of the district or may be leased or let for any purpose without interfering with the use thereof for the purposes of the district, and to pay any compensation received therefor into the general fund of the district and use the same for the purposes of this act.

13. To acquire for the objects and purposes of this act and the district by grant, purchase, gift, lease, devise, permit, or otherwise and to hold, use, and enjoy the rights to surface and groundwaters and to undertake those acts necessary to the beneficial use of such waters.

14. To levy fees and charges for the services, supplies, or material provided by district, the fees and charges, duly adopted by resolution of the district, not to exceed the actual cost of the services, supplies, or material.

SEC. 6. Section 22 of the Fresno Metropolitan Flood Control Act (Chapter 503 of the Statutes of 1955) is amended to read:

Sec. 22. The board of directors shall, not later than the beginning of each fiscal year, prepare an estimate in writing of the amount of money needed for the objects and purposes of the district for that fiscal year. The estimate shall include the estimated amount required to pay the expenses of the district, the cost of maintenance and operation of any works maintained or operated by the district or under its authority, the amount of any indebtedness (other than bonded debt) of the district currently due or to become due in such

fiscal year with interest, if any, payable thereon, the amount deemed necessary by the board of directors for a reserve fund to meet the expenses of the district during the first six months of the next subsequent fiscal year, and the estimated amount necessary for the payment of the costs of any action or proceeding which may be taken by the district, including the cost of employment of attorneys and engineers. The estimate may for convenience be called the "annual budget." A copy of the estimate shall be filed with the Board of Supervisors of the County of Fresno and the auditor thereof not later than the tenth day of July of such fiscal year. There shall be added to the estimate the amount required to provide for the payment of principal and interest of outstanding bonds of the district and the payment of principal and interest of bonds authorized but not sold but which the board of directors believes will be sold during the first six months of such fiscal year.

SEC. 7. Section 22(a) of the Fresno Metropolitan Flood Control Act (Chapter 503 of the Statutes of 1955) is amended to read:

Sec. 22(a). If the board of directors determines that the money needed by the district for acquisition and construction of land and improvements has been reduced by reason of the completion of works of improvement in a drainage area or zone with defined boundaries, the board may proportionately reduce the amount to be assessed upon the taxable real property in that drainage area or zone for the fiscal year, so that the property owners in the drainage area or zone will not be assessed for costs of acquisitions and improvements outside of the drainage area or zone not of benefit to the property owners, and the board of directors may request that the board of supervisors determine the rate of assessment tax separately for the drainage area or zone.

SEC. 8. Section 23 of the Fresno Metropolitan Flood Control Act (Chapter 503 of the Statutes of 1955) is amended to read:

Sec. 23. The board of supervisors shall annually, not later than the first Monday in September, levy an assessment tax upon the taxable real property in the district sufficient to carry out any of the objects and purposes of this act, all of which are of benefit to those lands and the improvements thereon, and to raise the amount stated in the annual budget, and also an assessment tax sufficient to raise the amount required for payment of principal and interest of bonds of the district. The board of supervisors shall determine the rate of each such assessment tax in the district and separately in any drainage area or zone with defined boundaries if so requested by the board of directors of the district pursuant to Section 22(a) by deducting 10 percent for the anticipated delinquencies from the total assessed value of the taxable real property in the district as it appears on any assessment roll or system of the county maintained for the purpose of levying ad valorem taxes or ad valorem assessments and then dividing the sum to be raised by the remainder of such total assessed value in the district and separately in any drainage area or zone with defined boundaries which is the subject of a request pursuant to

Section 22(a); provided, that if a fraction of a cent occurs on a valuation of one hundred dollars ($100) it shall be taken as a full cent. The assessment tax levied during any year for all purposes other than bond principal and interest shall not exceed twenty cents ($0.20) on each one hundred dollars ($100) of the assessed value of the taxable real property in the district according to the last equalized county assessment roll; provided, that such maximum permissible rate of assessment tax may be increased by the qualified voters of the district. The assessment tax shall be extended and collected in the same manner and by the same officers and with the same penalties and interest as general county taxes, and when collected shall be paid into the treasury of the county and credited to the district.

SEC. 9. Section 23.5 is added to the Fresno Metropolitan Flood Control Act (Chapter 503 of the Statutes of 1955), to read:

Sec. 23.5. (a) The Legislature hereby finds and declares that a county may face substantial expense in maintaining a roll or system which reflects both current values of property for purposes of ad valorem assessments as provided by this act as well as the property values for general taxation mandated by Article XIII A of the California Constitution. The Legislature further finds and declares that a fair and proper assessment for district objects and purposes may be levied on the alternative basis of the use to which the benefited land may be put and the services and benefits provided.

(b) The board of supervisors of the county and the board of directors of the district may evaluate the costs of maintaining a system to determine benefits according to assessed valuation of land and improvements thereon pursuant to Section 23 and the cost of determining benefits pursuant to use and services and benefits provided pursuant to Section 23.5. Pursuant to that determination, the board of supervisors and the board of director may elect to levy an assessment as set forth in Section 23 or this section sufficient to raise the amount or amounts represented annually by the district.

(c) The assessment authorized to be levied on each parcel under this section shall be based upon the parcel's proportionate benefit, taking into account the zone in which it is located, its size, and its capacity for being put to use, with respect to all other parcels in the district. The aggregate of all the assessments shall not exceed the maximum limit set forth in Section 23, except as that limit is increased by the qualified voters of the district.

(d) Prior to July 10 of each year, the district shall transmit to the board of supervisors the benefit and land use categories and factors required to levy the assessment authorized by this section.

(e) Prior to March 1 of any year, landowners in the district may petition the board of directors to review, or the board of directors may elect to review on its own motion, the land use categories and factors determined by the district and submitted to the board of supervisors pursuant to this section. The petition shall be signed by at least 1 percent of the landowners within the district. The board of directors shall set a time and place for hearing upon the petition and

shall give notice of the hearing by publishing the notice twice in a publication of general circulation at least 20 days prior to the hearing. The board of directors may, by resolution at the conclusion of the hearing, modify the land use categories and factors as, in its judgment, is required and that modification shall become effective the next tax year following the next March 1.

(f) If the board of supervisors of the county and the board of directors of the district elect to use the alternative assessment basis provided in this section, the county and the district may recover their reasonable costs of preparing, levying, and collecting the assessments. The district shall pay to the county from the proceeds of the assessments the county's portion of the costs.

SEC. 10. Section 28 of the Fresno Metropolitan Flood Control Act (Chapter 503 of the Statutes of 1955) is amended to read:

Sec. 28. The words hereinafter defined shall be given the meaning stated in this section, unless the context of the word as used at a particular place in the act indicates a different meaning at such place.

1. As used in this act,

(a) "District" means "Fresno Metropolitan Flood Control District";

(b) "Board" means "board of directors of that district";

(c) "County" means "County of Fresno";

(d) "City" means "City of Fresno" when the land and works are within the City of Fresno and the "City of Clovis" when the land or works are within that city;

(e) "Irrigation district" means "Fresno Irrigation District";

(f) "Board of supervisors" means "Board of Supervisors of the County of Fresno."

2. As used in this act, the words "flood control works" include dams, reservoirs, canals, ditches, drains, the improvement of natural or artificial watercourses, and the acquisition and construction of any and all improvements appurtenant to or necessary for any flood control, drainage, or water conservation work or works, and include the acquisition of any land, easements, property, or rights necessary for the flood control, drainage, or water conservation works.

3. As used in this act, the term "public official" means all elected officials and officers, including employees, of the City of Fresno, the City of Clovis, and the County of Fresno.

(4) Wherever in this act the term "assessment tax" is used, the term shall not be deemed or construed as referring to a tax in the technical sense of the term, but shall be deemed to refer to assessments based on benefits.

SEC. 11. Section 46 of the Fresno Metropolitan Flood Control Act (Chapter 503 of the Statutes of 1955) is amended to read:

Sec. 46. (a) The district may be divided into as many local drainage areas or zones as may be deemed convenient for the objects and purposes of the district, and each local drainage area or zone shall be composed of and include all of the lands which in the opinion

of the board of directors will be benefited in like manner. Each local drainage area or zone shall be designated on a map or plat of the district filed in the office of the board of directors, and the designation shall show the separate boundaries of each local drainage area or zone and a statement of the total cost or revenue or percentage thereof to be raised from each area or zone.

(b) If, in the opinion of the board of directors, modification of the zones is appropriate in order to better reflect the benefits as then received by lands within the district from the maintenance, operations, extension, or repair of works or improvements of the district, the district shall prepare a new map showing the proposed new zone boundaries with a statement of the new total cost or revenue or percentage to be raised from each zone. Upon the filing of the map showing proposed new zone boundaries, the board of directors shall give notice to all persons interested in the district by publication in a newspaper of general circulation published in the district, once a week for two successive weeks, which notice shall designate the time and place of hearing by the board of directors, at which time and place any person interested in the district may appear and object to the zones into which the district is divided, or the total cost or revenue or percentages to be raised from each of the zones. All objections shall be in writing, signed by the person or persons making the objection, and filed with the board of directors on or before the date fixed for the hearing. Upon hearing, the board of directors may change or modify any of the zones or the percentages of the cost or revenue to be raised therefrom. The hearing may be continued from time to time by the board of directors by an order entered on its minutes. The location and extent of the zones within the district and the total cost or revenue or percentages to be raised therefrom shall be finally established and determined by the board of directors and shall prevail for all purposes until any obligation of the district incurred on behalf of the zones shall have been fully discharged and until further modified pursuant to this section. The findings and determinations of the board of directors as to the extent and boundaries of the zones and the percentages of the cost or revenue to be raised therefrom shall be final and conclusive.

(c) The board may institute projects for single local drainage areas and zones and joint projects for two or more local areas or zones, for the financing, constructing, maintaining, operating, extending, repairing, or otherwise improving any work or improvement authorized by this act and of common benefit to the area or zone or participating areas and zones.

(d) The board may levy assessments, assessment taxes, benefit assessments, or taxes, as provided in this act, or incur bonded indebtedness to pay the cost of any work or improvement or the operating, maintaining, repairing, or extending any work or improvement within those local drainage areas or zones.

(e) For the purpose of acquiring authority to proceed with a

project or projects within and for the benefit of any local drainage areas or zones and to be financed under the bonding authority of this section, the board shall adopt a resolution specifying its intention to undertake such a project. The resolution will include engineering estimates of costs to be borne by the participating local drainage areas or zones, and shall fix a time and place for public hearing and shall refer to a map or maps showing project construction and location. Notice of the hearing shall be given by publication in a newspaper of general circulation within the district pursuant to Section 6056 of the Government Code. The notice shall designate a public place within the district where a copy of the maps may be seen during the two week period prior to the hearing.

At the time and place fixed for the hearing, or the continued portion thereof, the board shall consider all oral and written testimony. Upon the conclusion of the hearing the board may abandon the proposed project or proceed, unless, prior to the time set for receiving protests, a written protest against the project signed by holders of title to real property or assessable interests therein representing more than a majority of all holders of title within the participating drainage areas or zones is filed with the board and not withdrawn. In that event the proceedings shall be terminated and the project or projects shall not be reinitiated in the same drainage areas or zones for a period of six months.

In all matters referred to in this subdivision, the last equalized assessment roll of the County of Fresno shall be prima facie evidence as to the ownership of real property and the names and numbers of the holders of title. The board shall be entitled to inquire and take evidence for purposes of identifying any person claiming the right to file a written protest. Unless satisfactory evidence is furnished, the right to sign and file a protest may be denied.

(f) The procedure for authorizing bonds shall be as follows:

(1) Whenever the board determines that a bonded indebtedness should be incurred to pay the cost of any work or improvement in any local drainage areas or zones, the board may by resolution determine and declare the respective amounts of bonds necessary to be issued in each local drainage area or zone in order to raise the amount of money necessary for each work or improvement and the denomination and the maximum rate of interest of the bonds. The board shall cause a copy of the resolution, duly certified by the secretary, to be filed for record in the office of the Recorder of Fresno County within five days after its issuance. From and after the filing of the copy of the resolution, the board shall be deemed vested with the authority to proceed with the bond election.

(2) After the filing for record of the resolution specified in paragraph (1), the board may call a special bond election in the local drainage area or zone or participating local drainage areas or zones at which shall be submitted to the qualified electors of the local drainage area or zone or participating local drainage areas or zones the question whether or not bonds shall be issued in the amount or

amounts determined in the resolution and for the purpose or purposes therein stated. The bonds and the interest thereon shall be paid from revenue derived from annual assessment taxes levied as provided in this act.

(3) The board shall call such special bond election by resolution and submit to the qualified electors of the local drainage area or zone or participating local drainage areas or zones the proposition of incurring a bonded debt in the local drainage area or zone or participating local drainage areas or zones in the amount and for the purposes stated in the resolution and shall recite therein the objects and purposes for which the indebtedness is proposed to be incurred; provided, that it shall be sufficient to give a brief, general description of such objects and purposes, and refer to the recorded copy of the resolution specified in paragraph (1), and on file for particulars; and the resolution shall also state the estimated cost of the proposed work and improvements, the amount of the principal of the indebtedness to be incurred therefor, and the maximum rate of interest to be paid on that indebtedness, and shall fix the date on which such special election shall be held, and the form and contents of the ballot to be used. The rate of interest to be paid on such indebtedness shall not exceed the maximum rate permitted by law. For the purposes of that election, the board shall provide in the resolution for such election by mailed ballot or shall in the resolution establish special bond election precincts within the boundaries of each local drainage area or zone and participating local drainage area or zone and may form election precincts by consolidating the precincts established for general elections in the district to a number not exceeding six general precincts for each such special bond election precinct, and shall designate a polling place and appoint one inspector, one judge and one clerk for each of such special bond election precincts.

The board shall cause a map or maps to be prepared covering a general description of the work to be done, which said map shall show the location of the proposed works and improvements and shall cause the map to be posted in a prominent place in the county courthouse for public inspection for at least 30 days before the date fixed for such election.

The resolution calling for such special bond election shall, prior to the date set for such election, be published in a newspaper of general circulation circulated in each local drainage area or zone and participating local drainage area or zone affected for six consecutive times, if published in a daily newspaper of general circulation, or two times, if published in a weekly newspaper of general circulation. The last publication of such resolution shall be at least 14 days before the election, and if there be no such newspaper, then such resolution shall be posted in five public places, designated by the board, in each local drainage area or zone and participating local drainage area or zone for at least 30 days before the date fixed for such election. No other notice of such election need be given nor polling place cards be issued.

Any defect or irregularity in the proceedings prior to the calling of such special bond election shall not affect the validity of the bonds authorized by the election. Where a project affects a single local drainage area or zone only, if at such election a majority of the votes cast in the local drainage area or zone on the proposition of incurring a bonded indebtedness are in favor thereof, then bonds for the local drainage area or zone for the amount stated in such proceedings shall be issued and sold as in this act provided. Where the incurring of bonded indebtedness by participating local drainage zones is to be determined at such election, no bonds for any of such participating local drainage zones shall be issued or sold unless a majority of the votes cast on the proposition in each such participating local drainage area or zone are in favor of incurring the bonded indebtedness to be undertaken by the local drainage area or zone.

(g) The board shall, subject to the provisions of this act, prescribe by resolution the form of the bonds, which shall include a designation of the local drainage area or zone or participating local drainage area or zone affected, and of the interest coupons attached thereto. The bonds shall be payable, annually or semiannually at the discretion of the board, each and every year on a day and date, and at a place, to be fixed by the board and designated in such bonds, together with the interest on all sums unpaid on such date until the whole of the indebtedness shall have been paid.

The board may divide the principal amount of any issue into two or more series and fix different dates for the bonds of each series. The bonds of one series may be made payable at different times from those of any other series. The maturity of each series shall comply with this section. The board may fix a date, not more than two years from the date of issuance for the earliest maturity of each issue or series of bonds. The final maturity date shall not exceed 40 years from the time of incurring the indebtedness evidenced by each issue or series.

The bonds shall be issued in such denomination as the board may determine, except that no bonds shall be of a less denomination than one hundred dollars ($100), nor of a greater denomination than ten thousand dollars ($10,000), and shall be payable on the days and at the place fixed in said bonds, and with interest at the rate specified in such bonds, which rate shall not be in excess of the maximum rate allowed by law, and shall be made payable annually or semiannually, and said bonds shall be numbered consecutively and shall be signed by the chairman of the board, and countersigned by the secretary of said district, and the seal of said district shall be affixed thereto by said secretary. Either or both of such signatures may be printed, engraved or lithographed. The interest coupons of said bonds shall be numbered consecutively and signed by the said secretary by his printed, engraved or lithographed signature. In case any such officers whose signatures or countersignatures appear on the bonds or coupons shall cease to be such officers before the delivery of such bonds to the purchaser, such bonds and coupons, and signatures or

countersignatures shall nevertheless be valid and sufficient for all purposes the same as if such officers had remained in office until the delivery of the bonds.

(h) The board may issue and sell the bonds of the local drainage areas or zones authorized as hereinbefore provided above or below par value, and the proceeds of the sale of such bonds shall be placed in the treasury of the County of Fresno to the credit of the district and the respective participating local drainage zones thereof, for the use and purposes of the local drainage zone or zones voting said bonds; and the proper record of such transactions shall be placed upon the books of said county treasurer, and the respective local drainage area or zone funds shall be applied exclusively to the purposes and objects mentioned in the resolution calling for such special bond election as aforesaid, subject to the provisions in this act contained. Payments from the local drainage area or zone funds shall be made upon demands prepared, presented, allowed and audited in the same manner as demands upon the funds of the County of Fresno.

(i) Any bonds issued under the provisions of this act, and the interest thereon, shall be paid by revenue derived from the levy of an annual assessment tax on all taxable real property within a local drainage area or zone or participating local drainage areas or zones, including both land and improvements thereon.

(j) The board shall levy an assessment tax each year sufficient to pay the interest and such portion of the principal of said bonds as is due or to become due before the time for making the next general levy. Such assessment taxes shall be levied and collected in the respective local drainage areas or zones of issuance together with and not separately from taxes for county purposes, and when collected shall be paid into the county treasury of Fresno County to the credit of the local drainage area or zone of issuance, and to be used for the payment of the principal and interest on said bonds and for no other purpose. The principal and interest on said bonds shall be paid by the county treasurer of said Fresno County in the manner provided by law for the payment of principal and interest on bonds of the county.

(k) The provisions of law of this state, prescribing the time and manner of levying, assessing, equalizing and collecting county property taxes, including the sale of property for delinquency and the redemption from such sale, and the duties of the several county officers with respect thereto, are, so far as they are applicable, and not in conflict with the specific provisions of this act, hereby adopted and made a part hereof.

(*l*) The bonds of the district issued for any local drainage area or zone thereof pursuant to this act, shall be legal investments for all trust funds, and for the funds of all insurance companies, banks, both commercial and savings, and trust companies, and for the state school funds, and whenever any money or funds may by law now or hereafter enacted be invested in bonds of cities, cities and counties,

counties, school districts or municipalities in the State of California, such money or funds may be invested in the bonds of the district, issued in accordance with the provisions of this act, and whenever bonds of cities, cities and counties, counties, school districts or municipalities, may by any law now or hereafter enacted be used as security for the performance of any act, such bonds of the district may be so used.

This section is intended to be and shall be considered the latest enactment with respect to the matters herein contained and any and all acts or parts of acts in conflict with the provisions hereof are hereby repealed.

(m) All bonds issued by the district under the provisions of this act shall be free and exempt from all taxation within the State of California. It is hereby declared that the district organized by this act is a legal government within the meaning of Section 26 of Article XIII of the Constitution of this state.

(n) The repeal or amendment of this act shall not in any way affect or release any of the property in the district or any local drainage area or zone thereof from the obligations of any outstanding bonds or indebtedness until all such bonds and outstanding indebtedness have been fully paid and discharged.

(o) Notwithstanding any provisions of this act to the contrary, in the event the proceeds from the sale of bonds of any local drainage area or zone are invested temporarily in United States bonds, notes, or certificates of indebtedness, or in other legal investments pending the expenditure of the funds for the purpose or purposes for which the indebtedness was incurred, any revenue or interest received or accruing therefrom may be used to pay the annual or semiannual installments of principal or interest on the bonds as the same becomes due.

SEC. 12. 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. 13. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that needed flood control improvements, operations, and maintenance may be performed as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 1230

An act to amend Sections 101, 205, 9518, 9530, 9575, and 9575.6 of the Business and Professions Code, relating to fabric care.

[Approved by Governor September 29, 1985 Filed with Secretary of State September 30, 1985]

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

SECTION 1. Section 101 of the Business and Professions Code is amended to read:

101. The department is comprised of:

(a) The Board of Dental Examiners of California.

(b) The Board of Medical Quality Assurance of the State of California.

(c) The State Board of Optometry.

(d) The California State Board of Pharmacy.

(e) The Board of Examiners in Veterinary Medicine.

(f) The State Board of Accountancy.

(g) The California State Board of Architectural Examiners.

(h) The State Board of Barber Examiners.

(i) The State Board of Registration for Professional Engineers and Land Surveyors.

(j) The Contractors' State License Board.

(k) The State Board of Cosmetology.

(*l*) The State Board of Funeral Directors and Embalmers.

(m) The Structural Pest Control Board.

(n) The Bureau of Home Furnishings.

(o) The Board of Registered Nursing.

(p) The State Board of Dry Cleaning and Fabric Care.

(q) The Board of Chiropractic Examiners.

(r) The Board of Behavioral Science Examiners.

(s) The State Athletic Commission.

(t) The Cemetery Board.

(u) The State Board of Guide Dogs for the Blind.

(v) The Bureau of Collection and Investigative Services.

(w) The Certified Shorthand Reporters Board.

(x) The Board of Vocational Nurse and Psychiatric Technician Examiners of the State of California.

(y) The California State Board of Landscape Architects.

(z) The Bureau of Repair Services.

(aa) The Bureau of Employment Agencies.

(ab) The Board of Osteopathic Examiners.

(ac) The Division of Investigation.

(ad) The Bureau of Automotive Repair.

(ae) The State Board of Registration for Geologists and Geophysicists.

(af) The State Board of Examiners of Nursing Home

Administrators.

(ag) Any other boards, offices, or officers subject to its jurisdiction by law.

SEC. 2. Section 205 of the Business and Professions Code is amended to read:

205. There is in the State Treasury the Professions and Vocations Fund. The fund shall consist of the following special funds:

Accountancy Fund.
California State Board of Architectural Examiners' Fund.
Athletic Commission Fund.
State Board of Barber Examiners' Fund.
Cemetery Fund.
Contractors' License Fund.
Board of Cosmetology's Contingent Fund.
State Dentistry Fund.
Dry Cleaning and Fabric Care Fund.
State Funeral Directors and Embalmers' Fund.
Bureau of Home Furnishings Fund.
State Board of Landscape Architects' Fund.
Contingent Fund of the Board of Medical Examiners.
Board of Nurse Examiners' Fund.
State Optometry Fund.
Pharmacy Board Contingent Fund.
Physical Therapy Fund.
Private Investigator and Adjuster Fund.
Professional Engineers' and Land Surveyors' Fund.
Consumer Affairs Fund.
Behavioral Science Examiners Fund.
Shorthand Reporters' Fund.
Structural Pest Control Fund.
Board of Veterinary Examiners' Contingent Fund.
Vocational Nurse Examiners' Fund.

For accounting and recordkeeping purposes, the Professions and Vocations Fund shall be deemed to be a single special fund, and each of the several special funds therein shall constitute and be deemed to be a separate account in the Professions and Vocations Fund. Each such account or fund shall be available for expenditure only for such purposes as are now or may hereafter be provided by law.

SEC. 3. Section 9518 of the Business and Professions Code is amended to read:

9518. "The board" means State Board of Dry Cleaning and Fabric Care.

SEC. 4. Section 9530 of the Business and Professions Code is amended to read:

9530. There is in the Department of Consumer Affairs the State Board of Dry Cleaning and Fabric Care, which consists of seven members. The seven members of the board shall consist of four public members and three persons licensed or registered by the board. All board member licensees or registered persons shall have

been actively engaged in the dry cleaning industry for at least three years and after January 1, 1972, shall have been actively engaged in the dry cleaning industry for at least five years. It is desirable that members from the dry cleaning industry be so selected that there shall be a geographical balance.

Each member of the board shall receive a per diem and expenses as provided in Section 103.

SEC. 5. Section 9575 of the Business and Professions Code is amended to read:

9575. All funds collected pursuant to this chapter shall be transmitted to the State Treasurer for deposit in the State Treasury and shall be credited to the Dry Cleaning and Fabric Care Fund, which is appropriated without regard to fiscal years, as follows:

(a) For the support of the State Board of Dry Cleaning and Fabric Care.

(b) For expenditure by the board pursuant to Section 9575.6.

SEC. 6. Section 9575.6 of the Business and Professions Code is amended to read:

9575.6. The sum of seventy-five thousand dollars ($75,000) from the Dry Cleaning and Fabric Care Fund, may be expended by the State Board of Dry Cleaning and Fabric Care, during the 1972–1973 fiscal year and each fiscal year thereafter. This amount may be expended at the rate of not more than seventy-five thousand dollars ($75,000) during any one such fiscal year, for the purpose of conducting consumer information and education programs and industry continuing education and research programs on factors involved in the handling of consumer complaints, the cleaning and maintenance of fabrics, including those made from or containing synthetic fibers as well as natural fibers, such as wool, cotton, or other such fibers, and the effect of cleaning procedures on the properties, life, and wearing qualities of fabrics.

CHAPTER 1231

An act to add Sections 1000.5 and 1000.6 to the Fish and Game Code, relating to fish and game, and making an appropriation therefor.

[Approved by Governor September 29, 1985 Filed with Secretary of State September 30, 1985]

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

SECTION 1. Section 1000.5 is added to the Fish and Game Code, to read:

1000.5. (a) The department shall prepare and submit periodic reports to the Governor and the Legislature on the status of selected freshwater fisheries and the status of selected ocean fisheries, which

may include, but are not limited to, graphs of historical population trends, potential problems facing each discussed species, the effects that toxics in the environment are having on those species, any problems relating to disease, and any other considerations the department believes to be relevant to policy determinations affecting those fisheries.

(b) The reports shall be prepared and submitted to the Governor and to the Legislature at least every two years, not later than January 1. The first report shall be submitted not later than January 1, 1988.

(c) The report to the Legislature shall be referred to the Joint Committee on Fisheries and Aquaculture and to the respective policy committee in each house which considers matters relating to fish and game.

(d) The department shall prepare the reports within its existing financial and personnel resources.

SEC. 2. Section 1000.6 is added to the Fish and Game Code, to read:

1000.6. (a) The Legislature finds and declares all of the following:

(1) The commercial fishing industry of the North Coast has been greatly affected by decisions made by federal and state agencies concerning the health of the salmon resource and the consequent shortening or closing of the season, further impacting the already economically depressed region.

(2) Sportfishing on the North Coast, a staple of the tourism industry of the region, could be substantially affected by the limitations of the salmon seasons.

(3) The method of determining salmon escapement counts on only the Klamath River is inadequate for determining the overall health of the salmon resource in northern California waters and consequent decisions regarding the commercial, sport, and Indian salmon fisheries in those waters because it does not take into consideration the escapement figures on the Eel River and the Smith River.

(b) The department shall use present assessment methods to assess the salmon escapement count on the Eel River and the Smith River, as well as the Klamath River, systems, employing out-of-work fishermen, where possible, to do the counts with department personnel in supervisory capacities. Those figures shall be used by the commission and the department in all reports, recommendations, and decisions concerning the establishment of the commercial and sportfishing seasons in the state waters and in all recommendations to the Pacific Fishery Management Council or other regulatory agencies. This program shall be a priority for funding under the Fisheries Restoration Act of 1985 (Chapter 8 (commencing with Section 2760) added to Division 3 of the Fish and Game Code by Senate Bill No. 400 of the 1985–86 Regular Session).

(c) The department shall install sonar fish counting devices on the Klamath River system as a three-year test program to determine the

accuracy of the devices, and shall make recommendations to the Legislature by January 1, 1990, as to their accuracy and whether they should be installed on other river systems. Present assessment methods shall continue on the Klamath River system during the test period as a control mechanism.

SEC. 3. The sum of four hundred thousand dollars ($400,000) is hereby appropriated from the Fisheries Restoration Account created in the Fish and Game Preservation Fund by Senate Bill 400 of the 1985–86 Regular Session to the Department of Fish and Game for the purposes of subdivision (c) of Section 1000.6 of the Fish and Game Code, to be allocated for equipment, personnel, and administration, as determined by the department.

CHAPTER 1232

An act to amend Section 1564 of the Health and Safety Code, to amend Sections 1026, 1026.2, 1026.5, 1026.6, 1370, 1370.2, 1370.4, 1372, 1374, 1602, 1603, 1604, 1605, 1606, 1607, 1608, 1609, 1610, and 11105.1 of the Penal Code, and to amend Sections 5400, 5514, 5604.1, 5705.5, 5709.8, 5750, 5755, 5755.1, 5763, 5764, 5766, 5766.1, 5766.2, and 5767 of, and to add and repeal Section 5712.01 of, the Welfare and Institutions Code, relating to mental health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1985 Filed with Secretary of State September 30, 1985]

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

SECTION 1. Section 1564 of the Health and Safety Code is amended to read:

1564. (a) No individual who has ever been convicted of a sex offense against a minor shall reside in a community care facility that is within one mile of an elementary school.

(b) Any community care facility which is located within one mile of an elementary school shall obtain from each individual who is a resident of the facility on the effective date of this section a signed statement that the resident or applicant for residence has never been convicted of a sex offense against a minor.

(c) If on January 1, 1983, a person who has been convicted of a sex offense against a minor is residing in a community care facility that is within one mile of a school, the operator shall notify the appropriate placement agency. Continued residence in the facility shall extend no longer than six months.

(d) Prior to placement in a community care facility which is located within one mile of an elementary school, the placement agency shall obtain, from the client to be placed, a signed statement that he or she has never been convicted of a sex offense against a

minor. Any placement agent who knowingly places a person who has been convicted of a sex offense against a minor in a facility which is located within one mile of an elementary school shall be guilty of a misdemeanor.

Where there is no placement agency involved, the community care facility shall obtain from any applicant a signed statement that he or she has never been convicted of a sex offense against a minor.

(e) Any resident or applicant for residence who makes a false statement as to a conviction for a prior sex offense against a minor is guilty of a misdemeanor.

(f) For purposes of this section, "sex offense" means any one or more of the following offenses:

(1) Any offense defined in Section 220, 261, 261.5, 266, 266e, 266f, 266i, 266j, 267, 273f as it pertains to houses of prostitution, 273g, 285, 286, 288, 288a, 289, 290, 311, 311.2, 311.4, 313.1, 318, subdivision (a) or (d) of Section 647, 647a, 650½ as it relates to lewd or lascivious behavior, 653f, or 653m of the Penal Code.

(2) Any offense defined in subdivision (5) of former Section 647 of the Penal Code repealed by Chapter 560 of the Statutes of 1961, or any offense defined in subdivision (2) of former Section 311 of the Penal Code repealed by Chapter 2147 of the Statutes of 1961, if the offense defined in such sections was committed prior to September 15, 1961.

(3) Any offense defined in Section 314 of the Penal Code committed on or after September 15, 1961.

(4) Any offense defined in subdivision (1) of former Section 311 of the Penal Code repealed by Chapter 2147 of the Statutes of 1961 committed on or after September 7, 1955, and prior to September 15, 1961.

(5) Any offense involving lewd and lascivious conduct under Section 272 of the Penal Code committed on or after September 15, 1961.

(6) Any offense involving lewd and lascivious conduct under former Section 702 of the Welfare and Institutions Code repealed by Chapter 1616 of the Statutes of 1961, if such offense was committed prior to September 15, 1961.

(7) Any offense defined in Section 286 or 288a of the Penal Code prior to the effective date of the amendment of either section enacted at the 1975–76 Regular Session of the Legislature committed prior to the effective date of the amendment.

(8) Any attempt or conspiracy to commit any of the above-mentioned offenses.

(9) Any federal sex offense or any sex offense committed or attempted in any other state which, if committed or attempted in this state, would have been punishable as one or more of the above-mentioned offenses.

(g) This section shall not apply to residential care facilities for the elderly or to any person receiving community supervision and treatment pursuant to Title 15 (commencing with Section 1600) of

Part 2 of the Penal Code.

SEC. 1.5. 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 community program 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 community program 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 community program 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 community program 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 community program 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 community program director that the defendant be transferred to a public or private treatment facility approved by the community program 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 community program director, the court may, upon receiving the written recommendation of the community program director, order the defendant transferred to a state hospital or to another public or private treatment facility approved by the community program 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 community program 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 community program 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 Department of Mental Health.

(g) For purposes of this section and Sections 1026.1 to 1026.6, inclusive, "community program director" means the person, agency, or entity designated by the State Department of Mental Health pursuant to Section 1605 of this code and Section 5709.8 of the Welfare and Institutions Code.

SEC. 2. Section 1026.2 of the Penal Code, as amended by Section

3.5 of Chapter 1488 of the Statutes of 1984, is amended to read:

1026.2. (a) An application for the release of a person who has been committed to a state hospital or other treatment facility, as provided in Section 1026, upon the ground that sanity has been restored, may be made to the superior court of the county from which the commitment was made, either by the person, or by the medical director of the state hospital or other treatment facility to which the person is committed or by the community program director where the person is on outpatient status under Title 15 (commencing with Section 1600) of Part 2. The court shall give notice of the hearing date to the prosecuting attorney, the community program director or a designee, and the medical director or person in charge of the facility providing treatment to the committed person at least 15 judicial days in advance of the hearing date.

(b) Pending the hearing, the medical director or person in charge of the facility in which the person is confined shall prepare a summary of the person's programs of treatment and shall forward the summary to the community program director or a designee and to the court. The community program director or a designee shall review the summary and shall designate a facility within a reasonable distance from the court in which the person may be detained pending the hearing on the application for release. The facility so designated shall continue the program of treatment, shall provide adequate security, and shall, to the greatest extent possible, minimize interference with the person's program of treatment.

(c) A designated facility need not be approved for 72-hour treatment and evaluation 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); however, a county jail may not be designated unless the services specified above are provided, and accommodations are provided which ensure both the safety of the person and the safety of the general population of the jail. If there is evidence that the treatment program is not being complied with, or accommodations have not been provided which ensure both the safety of the committed person and the safety of the general population of the jail, the court shall order the person transferred to an appropriate facility or make any other appropriate order, including continuance of the proceedings.

(d) No hearing upon the application shall be allowed until the person committed shall have been confined or placed on outpatient status or on parole under Section 1611 for a period of not less than 180 days from the date of the order of commitment.

(e) The court shall hold a hearing to determine if the person applying for restoration of sanity would no longer be a danger to the health and safety of others, including himself or herself, if under supervision and treatment in the community. If the court at the hearing determines the applicant will not be a danger to the health and safety of others, including himself or herself, while under

supervision and treatment in the community, the court shall order the applicant placed with an appropriate local mental health program for one year. All or a substantial portion of the program shall include outpatient supervision and treatment. The court shall retain jurisdiction. The court at the end of the one year, shall have a trial to determine if sanity has been restored, which means the applicant is no longer a danger to the health and safety of others, including himself or herself. The court shall not determine whether the applicant has been restored to sanity until the applicant has completed the one year in the appropriate local mental health program. The court shall notify the persons required to be notified in subdivision (a) of the hearing date.

(f) If the applicant is on parole or outpatient status and has been on it for one year or longer, then it is deemed that the applicant has completed the required one year in an appropriate local mental health program and the court shall, if all other applicable provisions of law have been met, hold the trial on restoration of sanity as provided for in this section.

(g) Before placing an applicant in an appropriate local mental health program, the community program director shall submit to the court a written recommendation as to what local mental health program is the most appropriate for supervising and treating the applicant. If the court does not accept the community program director's recommendation, the court shall specify the reason or reasons for its order on the court record. The provisions of Sections 1605 to 1610.5, inclusive, shall be applicable to the person placed in the local mental health program unless otherwise ordered by the court.

(h) If the court determines that the person should be transferred to an appropriate local mental health program, the community program director or a designee shall make the necessary placement arrangements, and, within 21 days after receiving notice of the court finding, the person shall be placed in the community in accordance with the treatment and supervision plan, unless good cause for not doing so is made known to the court.

(i) If at the trial for restoration of sanity the court rules adversely to the applicant, the court may place the applicant on outpatient status, pursuant to Title 15 (commencing with Section 1600) of Part 2, unless by a preponderance of the evidence it is shown the applicant does not meet the requirements of Section 1603.

(j) If the court denies the application to place the person in an appropriate local mental health program or if restoration of sanity is denied, no new application may be filed by the person until one year has elapsed from the date of the denial.

(k) In any hearing authorized by this section, the applicant shall have the burden of proof by a preponderance of the evidence.

(*l*) If the application for the release is not made by the medical director of the state hospital or other treatment facility to which the person is committed or by the community program director where

the person is on outpatient status under Title 15 (commencing with Section 1600), no action on the application shall be taken by the court without first obtaining the written recommendation of the medical director of the state hospital or other treatment facility or of the community program director where the person is on outpatient status under Title 15 (commencing with Section 1600).

(m) This section shall become operative on January 1, 1986, and 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. 3. Section 1026.2 of the Penal Code, as amended by Section 1 of Chapter 1416 of the Statutes of 1984, is amended to read:

1026.2. (a) An application for the release of a person who has been committed to a state hospital or other treatment facility, as provided in Section 1026, upon the ground that sanity has been restored, may be made to the superior court of the county from which the commitment was made, either by the person, or by the medical director of the state hospital or other treatment facility to which the person is committed or by the community program director where the person is on outpatient status under Title 15 (commencing with Section 1600) of Part 2. The court shall give notice of the hearing date to the prosecuting attorney, the community program director or a designee, and the medical director or person in charge of the facility providing treatment to the committed person at least 15 judicial days in advance of the hearing date.

(b) Pending the hearing, the medical director or person in charge of the facility in which the person is confined shall prepare a summary of the person's programs of treatment and shall forward the summary to the community program director or a designee and to the court. The community program director or a designee shall review the summary and shall designate a facility within a reasonable distance from the court in which the person may be detained pending the hearing on the application for release. The facility so designated shall continue the program of treatment, shall provide adequate security, and shall, to the greatest extent possible, minimize interference with the person's program of treatment.

(c) A designated facility need not be approved for 72-hour treatment and evaluation 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); however, a county jail may not be designated unless the services specified above are provided, and accommodations are provided which ensure both the safety of the person and the safety of the general population of the jail. If there is evidence that the treatment program is not being complied with, or accommodations have not been provided which ensure both the safety of the committed person and the safety of the general population of the jail, the court shall order the person transferred to an appropriate facility or make any other appropriate

order, including continuance of the proceedings.

(d) No hearing upon the application for release shall be allowed until the person committed shall have been confined or placed on outpatient status or on parole under Section 1611 for a period of not less than 90 days from the date of the order of commitment. If the finding of the court is adverse to releasing the person on the ground that sanity has not been restored, no application shall be filed by the person until one year has elapsed from the date of hearing upon the last preceding application. In any hearing authorized by this section, the burden of proving that sanity has been restored shall be upon the applicant. The court shall notify the community program director or a designee and the medical director or person in charge of the facility providing treatment to the committed person whether or not the defendant was found by the court to have recovered sanity.

(e) If the application for the release is not made by the medical director of the state hospital or other treatment facility to which the person is committed or by the community program director where the person is on outpatient status under Title 15 (commencing with Section 1600), no action on the application shall be taken by the court without first obtaining the written recommendation of the medical director of the state hospital or other treatment facility or by the community program director where the person is on outpatient status under Title 15 (commencing with Section 1600).

(f) This section shall become operative on January 1, 1989.

SEC. 3.5. Section 1026.5 of the Penal Code is amended to read:

1026.5. (a) (1) In the case of any person committed to a state hospital or other treatment facility pursuant to Section 1026 or placed on outpatient status pursuant to Section 1604, who committed a felony on or after July 1, 1977, the court shall state in the commitment order the maximum term of commitment, and the person may not be kept in actual custody longer than the maximum term of commitment, except as provided in this section. For the purposes of this section, "maximum term of commitment" shall mean the longest term of imprisonment which could have been imposed for the offense or offenses of which the person was convicted, including the upper term of the base offense and any additional terms for enhancements and consecutive sentences which could have been imposed less any applicable credits as defined by Section 2900.5, and disregarding any credits which could have been earned pursuant to Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3.

(2) In the case of a person confined in a state hospital or other treatment facility pursuant to Section 1026 or placed on outpatient status pursuant to Section 1604, who committed a felony prior to July 1, 1977, and who could have been sentenced under Section 1168 or 1170 if the offense was committed after July 1, 1977, the Board of Prison Terms shall determine the maximum term of commitment which could have been imposed under paragraph (1), and the person may not be kept in actual custody longer than the maximum

term of commitment, except as provided in subdivision (b). The time limits of this section are not jurisdictional.

In fixing a term under this section, the board shall utilize the upper term of imprisonment which could have been imposed for the offense or offenses of which the person was convicted, increased by any additional terms which could have been imposed based on matters which were found to be true in the committing court. However, if at least two of the members of the board after reviewing the person's file determine that a longer term should be imposed for the reasons specified in Section 1170.2, a longer term may be imposed following the procedures and guidelines set forth in Section 1170.2, except that any hearings deemed necessary by the board shall be held within 90 days of September 28, 1979. Within 90 days of the date the person is received by the state hospital or other treatment facility, or of September 28, 1979, whichever is later, the Board of Prison Terms shall provide each person with the determination of the person's maximum term of commitment or shall notify such person that a hearing will be scheduled to determine the term.

Within 20 days following the determination of the maximum term of commitment the board shall provide the person, the prosecuting attorney, the committing court, and the state hospital or other treatment facility with a written statement setting forth the maximum term of commitment, the calculations, and any materials considered in determining the maximum term.

(3) In the case of a person committed to a state hospital or other treatment facility pursuant to Section 1026 or placed on outpatient status pursuant to Section 1604 who committed a misdemeanor, the maximum term of commitment shall be the longest term of county jail confinement which could have been imposed for the offense or offenses which the person was found to have committed, and the person may not be kept in actual custody longer than this maximum term.

(4) Nothing in this subdivision limits the power of any state hospital or other treatment facility or of the committing court to release the person, conditionally or otherwise, for any period of time allowed by any other provision of law.

(b) (1) A person may be committed beyond the term prescribed by subdivision (a) only under the procedure set forth in this subdivision and only if such person has been committed under Section 1026 for a felony, and who by reason of a mental disease, defect, or disorder represents a substantial danger of physical harm to others.

(2) Not later than 180 days prior to the termination of the maximum term of commitment prescribed in subdivision (a), the medical director of a state hospital in which the person is being treated, or the medical director of the person's treatment facility or the local program director, if the person is being treated outside a state hospital setting, shall submit to the prosecuting attorney his or her opinion as to whether or not the patient is a person described in

paragraph (1). If requested by the prosecuting attorney, the opinion shall be accompanied by supporting evaluations and relevant hospital records. The prosecuting attorney may then file a petition for extended commitment in the superior court which issued the original commitment. Such petition shall be filed no later than 90 days before the expiration of the original commitment unless good cause is shown. Such petition shall state the reasons for the extended commitment, with accompanying affidavits specifying the factual basis for believing that the person meets each of the requirements set forth in paragraph (1).

(3) When such a petition is filed, the court shall advise the person named in the petition of the right to be represented by an attorney and of the right to a jury trial. The rules of discovery in criminal cases shall apply.

(4) The court shall conduct a hearing on the petition for extended commitment. The trial shall be by jury unless waived by both the person and the prosecuting attorney. The trial shall commence no later than 30 calendar days prior to the time the person would otherwise have been released, unless such time is waived by the person or unless good cause is shown.

(5) The person shall be entitled to the rights guaranteed under the federal and State Constitutions for criminal proceedings. All proceedings shall be in accordance with applicable constitutional guarantees. The state shall be represented by the district attorney who shall notify the Attorney General in writing that a case has been referred under this section. If the person is indigent, the county public defender or State Public Defender shall be appointed. The State Public Defender may provide for representation of the person in any manner authorized by Section 15402 of the Government Code. Appointment of necessary psychologists or psychiatrists shall be made in accordance with this article and Penal Code and Evidence Code provisions applicable to criminal defendants who have entered pleas of not guilty by reason of insanity.

(6) If the court or jury finds that the patient is a person described in paragraph (1), the court shall order the patient recommitted to the facility in which the patient was confined at the time the petition was filed. Any such commitment shall be for an additional period of two years from the date of termination of the previous commitment.

(7) A person committed under this subdivision shall be eligible for release to outpatient status pursuant to the provisions of Title 15 (commencing with Section 1600) of Part 2.

(8) Prior to termination of a commitment under this subdivision, a petition for recommitment may be filed to determine whether the patient remains a person described in paragraph (1). Such recommitment proceeding shall be conducted in accordance with the provisions of this subdivision.

(9) Any commitment under this subdivision places an affirmative obligation on the treatment facility to provide treatment for the underlying causes of the person's mental disorder.

SEC. 4. Section 1026.6 of the Penal Code is amended to read:

1026.6. Whenever any person who has been committed to a state hospital pursuant to Section 1026 is released for any reason, including placement on outpatient status, the director of the hospital shall notify the community program director of the county, and the chief law enforcement officer of the jurisdiction, in which the person will reside upon release, if that information is available.

SEC. 5. Section 1370 of the Penal Code is amended to read:

1370. (a) (1) If the defendant is found mentally competent, the criminal process shall resume, the trial on the offense charged shall proceed, and judgment may be pronounced. If the defendant is found mentally incompetent, the trial or judgment shall be suspended until the person becomes mentally competent, and the court shall order that (i) in the meantime, the defendant be delivered by the sheriff to a state hospital for the care and treatment of the mentally disordered or to any other available public or private treatment facility approved by the community program director which will promote the defendant's speedy restoration to mental competence, or placed on outpatient status as specified in Section 1600 and (ii) upon the filing of a certificate of restoration to competence, the defendant be returned to court in accordance with the provisions of Section 1372. The court shall transmit a copy of its order to the community program director or a designee.

(2) 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 community program director or a designee to evaluate the defendant and to submit to the court within 15 judicial days of such order a written recommendation as to whether the defendant should be required to undergo outpatient treatment, or committed to a state hospital or to any 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 community program director or a designee.

(3) 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 community program director that the defendant be transferred to a public or private treatment facility approved by the community program director, order the defendant transferred to such facility. If the defendant is committed or transferred to a public or private treatment facility approved by the community program director, the court may, upon receiving the written recommendation of the community program director, transfer the defendant to a state hospital or to another public or private treatment facility approved by the community program director. In the event of dismissal of the criminal charges before the defendant recovers competence, the person shall be subject to the applicable provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section

5000) of Division 5 of the Welfare and Institutions Code). Where either the defendant or the prosecutor chooses to contest either kind of order of transfer, a petition may be filed in the court for a hearing, which shall be held if the court determines that sufficient grounds exist. At such hearing, the prosecuting attorney or the defendant may present evidence bearing on the order of transfer. The court shall use the same standards as used in conducting probation revocation hearings pursuant to Section 1203.2.

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 community program director or a designee.

(b) (1) Within 90 days of a commitment made pursuant to subdivision (a), the medical director of the state hospital or other treatment facility to which the defendant is confined shall make a written report to the court and the community program director for the county or region of commitment or a designee concerning the defendant's progress toward recovery of mental competence. Where the defendant is on outpatient status, the outpatient treatment staff shall make a written report to the community program director concerning the defendant's progress toward recovery of mental competence. Within 90 days of placement on outpatient status, the community program director shall report to the court on this matter. If the defendant has not recovered mental competence, but the report discloses a substantial likelihood the defendant will regain mental competence in the foreseeable future, the defendant shall remain in the state hospital or other treatment facility or on outpatient status. Thereafter, at six-month intervals or until the defendant becomes mentally competent, where the defendant is confined in a treatment facility, the medical director of the hospital or person in charge of the facility shall report in writing to the court and the community program director or a designee regarding the defendant's progress toward recovery of mental competence. Where the defendant is on outpatient status, after the initial 90-day report, the outpatient treatment staff shall report to the community program director on the defendant's progress toward recovery and the community program director shall report to the court on this matter at six-month intervals. A copy of these reports shall be provided to the prosecutor and defense counsel by the court. If the report indicates that there is no substantial likelihood that the defendant will regain mental competence in the foreseeable future, the committing court shall order the defendant to be returned to the court for proceedings pursuant to paragraph (2) of subdivision (c). The court shall transmit a copy of its order to the community program director or a designee.

(2) Any defendant who has been committed or has been on outpatient status for 18 months and is still hospitalized or on outpatient status shall be returned to the committing court where a hearing shall be held pursuant to the procedures set forth in Section

1369. The court shall transmit a copy of its order to the community program director or a designee.

(3) If it is determined by the court that no treatment for the defendant's mental impairment is being conducted, the defendant shall be returned to the committing court. The court shall transmit a copy of its order to the community program director or a designee.

(c) (1) If, at the end of three years from the date of commitment or a period of commitment equal to the maximum term of imprisonment provided by law for the most serious offense charged in the information, indictment, or misdemeanor complaint, whichever is shorter, the defendant has not recovered mental competence, the defendant shall be returned to the committing court. The court shall notify the community program director or a designee of such return and of any resulting court orders.

(2) Whenever any defendant is returned to the court pursuant to paragraph (1) or (2) of subdivision (b) or paragraph (1) of subdivision (c) of this section and it appears to the court that the defendant is gravely disabled as defined in paragraph (2) of subdivision (h) of Section 5008 of the Welfare and Institutions Code, the court shall order the conservatorship investigator of the county of commitment of the defendant to initiate conservatorship proceedings for such defendant pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code. Any hearings required in the conservatorship proceedings shall be held in the superior court in the county which ordered the commitment. The court shall transmit a copy of the order directing initiation of conservatorship proceedings to the community program director or a designee and shall notify the community program director or a designee of the outcome of such proceedings.

(d) The criminal action remains subject to dismissal pursuant to Section 1385. If the criminal action is dismissed, the court shall transmit a copy of the order of dismissal to the community program director or a designee.

(e) If the criminal charge against the defendant is dismissed, the defendant shall be released from any commitment ordered under this section, but without prejudice to the initiation of any proceedings which may be appropriate under the Lanterman-Petris-Short Act, Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code.

(f) As used in this chapter, "community program director" means the person, agency, or entity designated by the State Department of Mental Health pursuant to Section 1605 of this code and Section 5709.8 of the Welfare and Institutions Code.

SEC. 6. Section 1370.2 of the Penal Code is amended to read:

1370.2. If a person is adjudged mentally incompetent pursuant to the provisions of this chapter, the superior court may dismiss any misdemeanor charge pending against the mentally incompetent person. Ten days notice shall be given to the district attorney of any

motion to dismiss pursuant to this section. The court shall transmit a copy of any order dismissing a misdemeanor charge pursuant to this section to either the community program director or the regional center director and the Director of Developmental Services, as appropriate.

SEC. 7. Section 1370.4 of the Penal Code is amended to read:

1370.4. If, in the evaluation ordered by the court under Section 1370.1, the regional center director, or a designee, is of the opinion that the defendant is not a danger to the health and safety of others while on outpatient treatment and will benefit from such treatment, and has obtained the agreement of the person in charge of a residential facility and of the defendant that the defendant will receive and submit to outpatient treatment and that the person in charge of the facility will designate a person to be the outpatient supervisor of the defendant, the court may order the defendant to undergo outpatient treatment. All of the provisions of Title 15 (commencing with Section 1600) of Part 2 shall apply where a defendant is placed on outpatient status under this section, except that the regional center director shall be substituted for the community program director, the Director of Developmental Services for the Director of Mental Health, and a residential facility for a treatment facility for the purposes of this section.

SEC. 8. Section 1372 of the Penal Code is amended to read:

1372. (a) (1) If the medical director of the state hospital or other facility to which the defendant is committed, or the community program director or regional center director providing outpatient services under Title 15 (commencing with Section 1600) of Part 2 or Section 1370.4, determines that the defendant has regained mental competence, such director shall immediately certify that fact to the court.

(2) Upon the filing of a certificate of restoration, the defendant shall be returned to the committing court in the following manner: A patient who remains confined in a state hospital or other treatment facility shall be redelivered to the sheriff of the county from which the patient was committed. The sheriff shall immediately return the person to the court for further proceedings. The patient who is on outpatient status shall be returned to court through arrangements made by the outpatient treatment supervisor.

(b) If the defendant becomes mentally competent after a conservatorship has been established pursuant to the applicable provisions of the Lanterman-Petris-Short Act, Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code, and Section 1370, the conservator shall certify that fact to the sheriff and district attorney of the county in which defendant's case is pending, defendant's attorney of record, and the committing court.

(c) When a defendant is returned to court with a certification that competence has been regained, the court shall notify either the community program director or the regional center director and the Director of Developmental Services, as appropriate, of the date of

any hearing on the defendant's competence and whether or not the defendant was found by the court to have recovered competence.

(d) Where the committing court approves the certificate of restoration to competence as to a person in custody, the court shall hold a hearing to determine whether the person is entitled to be admitted to bail or released on own recognizance status pending conclusion of the proceedings. Where the superior court approves the certificate of restoration to competence regarding a person on outpatient status, unless it appears that the person has refused to come to court, that person shall remain released either on own recognizance status, or, in the case of a developmentally disabled person, either on the defendant's promise or on the promise of a responsible adult to secure the person's appearance in court for further proceedings. Where the person has refused to come to court, the court shall set bail and may place the person in custody until bail is posted.

(e) A defendant subject to either subdivision (a) or (b) who is not admitted to bail or released under subdivision (d) may, at the discretion of the court, upon recommendation of the director of the facility where the defendant is receiving treatment, be returned to the hospital or facility of his or her original commitment or other appropriate secure facility approved by either the community program director or the regional center director. The recommendation submitted to the court shall be based on the opinion that the person will need continued treatment in a hospital or treatment facility in order to maintain competence to stand trial or that placing the person in a jail environment would create a substantial risk that the person would again become incompetent to stand trial before criminal proceedings could be resumed.

SEC. 9. Section 1374 of the Penal Code is amended to read:

1374. When a defendant who has been found incompetent is on outpatient status under Title 15 (commencing with Section 1600) of Part 2 and the outpatient treatment staff is of the opinion that the defendant has recovered competence, the supervisor shall communicate such opinion to the community program director. If the community program director concurs, that opinion shall be certified by such director to the committing court. The court shall calendar the case for further proceeding pursuant to Section 1372.

SEC. 10. Section 1602 of the Penal Code is amended to read:

1602. (a) Any person subject to the provisions of subdivision (b) of Section 1601 may be placed on outpatient status, if all of the following conditions are satisfied:

(1) In the case of a person who is an inpatient, the director of the state hospital or other treatment facility to which the person has been committed advises the court that the defendant will not be a danger to the health and safety of others while on outpatient status, and will benefit from such outpatient status.

(2) In all cases, the community program director or a designee advises the court that the defendant will not be a danger to the

health and safety of others while on outpatient status, will benefit from such status, and identifies an appropriate program of supervision and treatment.

(3) After actual notice to the prosecutor and defense counsel, and after a hearing in court, the court specifically approves the recommendation and plan for outpatient status.

(b) The community program director or a designee shall prepare and submit the evaluation and the treatment plan specified in paragraph (2) of subdivision (a) to the court within 15 calendar days after notification by the court to do so, except that in the case of a person who is an inpatient, the evaluation and treatment plan shall be submitted within 30 calendar days after notification by the court to do so.

(c) Any evaluations and recommendations pursuant to paragraphs (1) and (2) of subdivision (a) shall include review and consideration of complete, available information regarding the circumstances of the criminal offense and the person's prior criminal history.

SEC. 11. Section 1603 of the Penal Code, as amended by Section 7 of Chapter 1488 of the Statutes of 1984, is amended to read:

1603. (a) Any person subject to the provisions of subdivision (a) of Section 1601 may be placed on outpatient status if all of the following conditions are satisfied:

(1) The director of the state hospital or other treatment facility to which the person has been committed advises the committing court that the defendant would no longer be a danger to the health and safety of others while on outpatient status, and will benefit from such status.

(2) The community program director advises the court that the defendant will benefit from such status, and identifies an appropriate program of supervision and treatment.

(3) After actual notice to the prosecutor and defense counsel, and to the victim or next of kin of the victim of the offense for which the person was committed where a request for such notice has been filed with the court, and after a hearing in court, the court specifically approves the recommendation and plan for outpatient status pursuant to Section 1604. The burden shall be on the victim or next of kin to the victim to keep the court apprised of the party's current mailing address.

In any case in which the victim or next of kin to the victim has filed a request for notice with the director of the state hospital or other treatment facility, he or she shall be notified by the director at the inception of any program in which the committed person would be allowed any type of day release unattended by the staff of the facility.

(b) The community program director shall prepare and submit the evaluation and the treatment plan specified in paragraph (2) of subdivision (a) to the court within 30 calendar days after notification by the court to do so.

(c) Any evaluations and recommendations pursuant to

paragraphs (1) and (2) of subdivision (a) shall include review and consideration of complete, available information regarding the circumstances of the criminal offense and the person's prior criminal history.

(d) 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. 12. Section 1603 of the Penal Code, as added by Section 7.5 of Chapter 1488 of the Statutes of 1984, is amended to read:

1603. (a) Any person subject to the provisions of subdivision (a) of Section 1601 may be placed on outpatient status if all of the following conditions are satisfied:

(1) The director of the state hospital or other treatment facility to which the person has been committed advises the committing court that the defendant is no longer likely to be a danger to the health and safety of others while on outpatient status, and will benefit from such status.

(2) The community program director advises the court that the defendant will benefit from such status, and identifies an appropriate program of supervision and treatment.

(3) After actual notice to the prosecutor and defense counsel, and to the victim or next of kin of the victim of the offense for which the person was committed where a request for such notice has been filed with the court, and after a hearing in court, the court specifically approves the recommendation and plan for outpatient status pursuant to Section 1604. The burden shall be on the victim or next of kin to the victim to keep the court apprised of the party's current mailing address.

In any case in which the victim or next of kin to the victim has filed a request for notice with the director of the state hospital or other treatment facility, he or she shall be notified by the director at the inception of any program in which the committed person would be allowed any type of day release unattended by the staff of the facility.

(b) The community program director shall prepare and submit the evaluation and the treatment plan specified in paragraph (2) of subdivision (a) to the court within 30 calendar days after notification by the court to do so.

(c) Any evaluations and recommendations pursuant to paragraphs (1) and (2) of subdivision (a) shall include review and consideration of complete, available information regarding the circumstances of the criminal offense and the person's prior criminal history.

(d) This section shall become operative on January 1, 1988, and shall remain in effect only until January 1, 1989, unless a later enacted statute, which is chaptered before January 1, 1989, deletes or extends that date.

SEC. 13. Section 1603 of the Penal Code, as amended by Section 8 of Chapter 1488 of the Statutes of 1984, is amended to read:

1603. (a) Any person subject to subdivision (a) of Section 1601

may be placed on outpatient status if all of the following conditions are satisfied:

(1) The director of the state hospital or other treatment facility to which the person has been committed advises the committing court that the defendant is no longer likely to be a danger to the health and safety of others while on outpatient status, and will benefit from that status.

(2) The community program director advises the court that the defendant will benefit from that status, and identifies an appropriate program of supervision and treatment.

(3) After actual notice to the prosecutor and defense counsel, and after a hearing in court, the court specifically approves the recommendation and plan for outpatient status pursuant to Section 1604.

(b) The community program director shall prepare and submit the evaluation and the treatment plan specified in paragraph (2) of subdivision (a) to the court within 30 calendar days after notification by the court to do so.

(c) Any evaluations and recommendations pursuant to paragraphs (1) and (2) of subdivision (a) shall include review and consideration of complete, available information regarding the circumstances of the criminal offense and the person's prior criminal history.

(d) This section shall become operative January 1, 1989.

SEC. 14. Section 1604 of the Penal Code is amended to read:

1604. (a) Upon receipt by the committing court of the recommendation of the director of the state hospital or other treatment facility to which the person has been committed that the person may be eligible for outpatient status as set forth in subdivision (a) (1) of Section 1602 or 1603, the court shall immediately forward such recommendation to the community program director, prosecutor, and defense counsel. The court shall provide copies of the arrest reports and the state summary criminal history information to the community program director.

(b) Within 30 calendar days the community program director or a designee shall submit to the court and, when appropriate, to the director of the state hospital or other treatment facility, a recommendation regarding the defendant's eligibility for outpatient status, as set forth in subdivision (a) (2) of Section 1602 or 1603 and the recommended plan for outpatient supervision and treatment. The plan shall set forth specific terms and conditions to be followed during outpatient status. The court shall provide copies of this report to the prosecutor and the defense counsel.

(c) The court shall calendar the matter for hearing within 15 judicial days of the receipt of the community program director's report and shall give notice of the hearing date to the prosecutor, defense counsel, the community program director, and, when appropriate, to the director of the state hospital or other facility. In any hearing conducted pursuant to this section, the court shall

consider the circumstances and nature of the criminal offense leading to commitment and shall consider the person's prior criminal history.

(d) The court shall, after a hearing in court, either approve or disapprove the recommendation for outpatient status. If the approval of the court is given, the defendant shall be placed on outpatient status subject to the terms and conditions specified in the supervision and treatment plan. If the outpatient treatment occurs in a county other than the county of commitment, the court shall transmit a copy of the case record to the superior court in the county where outpatient treatment occurs, so that the record will be available if revocation proceedings are initiated pursuant to Section 1608 or 1609.

SEC. 15. Section 1605 of the Penal Code is amended to read:

1605. (a) In accordance with Section 1615 of this code and Section 5709.8 of the Welfare and Institutions Code, the State Department of Mental Health shall be responsible for the supervision of persons placed on outpatient status under the provisions of this title. The State Department of Mental Health shall designate, for each county or region comprised of two or more counties, a community program director who shall be responsible for administering the community treatment programs for persons committed from that county or region under the provisions specified in Section 1600.

(b) The State Department of Mental Health shall notify in writing the superior court, the district attorney, the county public defender or public defense agency, and the county mental health director of each county as to the person, agency, or entity designated to be the community program director for that county, and timely written notice shall be given whenever a new community program director is to be designated.

(c) The community program director shall be the outpatient treatment supervisor of persons placed on outpatient status under the provisions of this title. The community program director may delegate such outpatient treatment supervision responsibility to a designee.

(d) The outpatient treatment supervisor shall, at 90-day intervals following the beginning of outpatient treatment, submit to the court, the prosecutor and defense counsel, and to the community program director, where appropriate, a report setting forth the status and progress of the defendant.

SEC. 16. Section 1606 of the Penal Code is amended to read:

1606. Outpatient status shall be for a period not to exceed one year. At the end of the period of outpatient status approved by the court, the court shall, after actual notice to the prosecutor, the defense counsel, and the community program director, and after a hearing in court, either discharge the person from commitment under appropriate provisions of the law, order the person confined to a treatment facility, or renew its approval of outpatient status.

Prior to such hearing, the community program director shall furnish a report and recommendation to the medical director of the state hospital, where appropriate, and to the court, which the court shall make available to the prosecutor and defense counsel. The person shall remain on outpatient status until the court renders its decision unless hospitalized under other provision of the law. The hearing pursuant to the provisions of this section shall be held no later than 30 days after the end of the one-year period of outpatient status unless good cause exists. The court shall transmit a copy of its order to the community program director or a designee.

SEC. 17. Section 1607 of the Penal Code is amended to read:

1607. If the outpatient supervisor is of the opinion that the person has regained competence to stand trial, or is no longer insane, or is no longer a mentally disordered sex offender, the community program director shall submit such opinion to the medical director of the state hospital, where appropriate, and to the court which shall calendar the case for further proceedings under the provisions of Section 1372 or 1026.2 of this code or Section 6325 of the Welfare and Institutions Code.

SEC. 18. Section 1608 of the Penal Code is amended to read:

1608. If at any time during the outpatient period, the outpatient treatment supervisor is of the opinion that the person requires extended inpatient treatment or refuses to accept further outpatient treatment and supervision, the community program director shall notify the superior court in either the county which approved outpatient status or in the county where outpatient treatment is being provided of such opinion by means of a written request for revocation of outpatient status. The community program director shall furnish a copy of this request to the defense counsel and to the prosecutor in both counties if the request is made in the county of treatment rather than the county of commitment.

Within 15 judicial days, the court where the request was filed shall hold a hearing and shall either approve or disapprove the request for revocation of outpatient status. If the court approves the request for revocation, the court shall order that the person be confined in a state hospital or other treatment facility approved by the community program director. The court shall transmit a copy of its order to the community program director or a designee. Where the county of treatment and the county of commitment differ and revocation occurs in the county of treatment, the court shall enter the name of the committing county and its case number on the order of revocation and shall send a copy of the order to the committing court and the prosecutor and defense counsel in the county of commitment.

SEC. 19. Section 1609 of the Penal Code is amended to read:

1609. If at any time during the outpatient period or placement with a local mental health program pursuant to subdivision (b) of Section 1026.2 the prosecutor is of the opinion that the person is a danger to the health and safety of others while on that status, the

prosecutor may petition the court for a hearing to determine whether the person shall be continued on that status. Upon receipt of the petition, the court shall calendar the case for further proceedings within 15 judicial days and the clerk shall notify the person, the community program director, and the attorney of record for the person of the hearing date. Upon failure of the person to appear as noticed, if a proper affidavit of service and advisement has been filed with the court, the court may issue a body attachment for such person. If, after a hearing in court conducted using the same standards used in conducting probation revocation hearings pursuant to Section 1203.2, the judge determines that the person is a danger to the health and safety of others, the court shall order that the person be confined in a state hospital or other treatment facility which has been approved by the community program director.

SEC. 20. Section 1610 of the Penal Code is amended to read:

1610. Upon the filing of a request for revocation under Section 1608 or 1609 and pending the court's decision on revocation, the person subject to revocation may be confined in a state hospital or other treatment facility by the community program director when it is the opinion of that director that the person will now be a danger to self or to another while on outpatient status and that to delay hospitalization until the revocation hearing would pose an imminent risk of harm to the person or to another. Upon the request of the community program director or a designee, a peace officer shall take, or cause to be taken, the person into custody and transport the person to a treatment facility for hospitalization under this section. The community program director shall notify the court in writing of the admission of the person to inpatient status and of the factual basis for the opinion that such immediate return to inpatient treatment was necessary. The court shall supply a copy of these documents to the prosecutor and defense counsel.

A person hospitalized under this section shall have the right to judicial review of the detention in the manner prescribed in Article 5 (commencing with Section 5275) of Chapter 2 of Part 1 of Division 5 of the Welfare and Institutions Code and to an explanation of rights in the manner prescribed in Section 5352.1 of the Welfare and Institutions Code.

Nothing in this section shall prevent hospitalization pursuant to the provisions of Section 5150, 5250, 5350, or 5353 of the Welfare and Institutions Code.

A person whose confinement in a treatment facility under Section 1608 or 1609 is approved by the court shall not be released again to outpatient status unless court approval is obtained under Section 1602 or 1603.

SEC. 21. Section 11105.1 of the Penal Code is amended to read:

11105.1. (a) The following persons shall be furnished with state summary criminal history information when needed in the course of their duties:

(1) The director of a state hospital or other treatment facility to

which a person is committed for treatment under Sections 1026 and 1370 of the Penal Code, or Section 5250, if committed for being dangerous to others, or Section 5300, or former Section 6316 or 6321, of the Welfare and Institutions Code.

(2) The community program director or the director's designee under any of the following conditions:

(A) When ordered to evaluate a defendant for the court under paragraph (2) of subdivision (a) of Section 1370 and subdivision (b) of Section 1026 of the Penal Code, or paragraph (2) of subdivision (a) of former Section 6316 of the Welfare and Institutions Code.

(B) When ordered to provide outpatient treatment and supervision services under Title 15 (commencing with Section 1600) of Part 2 of the Penal Code.

(C) When a patient is committed for being dangerous to others under Section 5250 of the Welfare and Institutions Code.

(3) The officer providing conservatorship investigation under Section 5354 of the Welfare and Institutions Code in cases where referral for conservatorship is made while the proposed conservatee is being treated under Section 1026 or 1370 of the Penal Code or Section 5250, if committed for being dangerous to others, or Section 5300, or former Section 6316 or 6321, of the Welfare and Institutions Code.

(b) In all instances pursuant to subdivision (a), the criminal history record shall be transmitted by the court with the request for evaluation or during the conservatorship investigation or with the order committing the person to a treatment facility or approving outpatient status, except that the director of a state hospital, the county mental health director, and the officer providing conservatorship investigation may receive the state summary criminal history information from the law enforcement agency that referred the person for evaluation and treatment under Section 5150 of the Welfare and Institutions Code if the person has been subsequently committed for being dangerous to others under Section 5250 of the Welfare and Institutions Code. Information obtained under this subdivision shall not be, included in any document which will become part of a public record.

SEC. 22. Section 5400 of the Welfare and Institutions Code is amended to read:

5400. The Director of Mental Health shall administer this part and shall adopt rules, regulations and standards as necessary. In developing rules, regulations, and standards, the Director of Mental Health shall consult with the California Conference of Local Mental Health Directors, the California Council on Mental Health, and the office of the Attorney General. Adoption of such standards, rules and regulations shall require approval by the California Conference of Local Mental Health Directors by majority vote of those present at an official session.

Wherever feasible and appropriate, rules, regulations and standards adopted under this part shall correspond to comparable

rules, regulations, and standards adopted under the Short-Doyle Act. Such corresponding rules, regulations, and standards shall include qualifications for professional personnel.

Regulations adopted pursuant to this part may provide standards for services for chronic alcoholics which differ from the standards for services for the mentally disordered.

SEC. 23. Section 5514 of the Welfare and Institutions Code is amended to read:

5514. There shall be a five-person Patients' Rights Subcommittee of the California Council on Mental Health. This subcommittee, supplemented by two ad hoc members appointed by the chairperson of the subcommittee, shall advise the Director of Mental Health regarding department policies and practices that affect patients' rights. The subcommittee shall also review the advocacy and patients' rights components of each county Short-Doyle plan and advise the Director of Mental Health concerning the adequacy of each plan in protecting patients' rights. The ad hoc members of the subcommittee shall be persons with substantial experience in establishing and providing independent advocacy services to recipients of mental health services.

SEC. 24. Section 5604.1 of the Welfare and Institutions Code is amended to read:

5604.1. (a) There is hereby established an Organization of Mental Health Advisory Boards, consisting of the respective chairpersons or designees of the individual boards.

(b) The Organization of Mental Health Advisory Boards shall discuss common problems, exchange information, improve coordination and advise the California Council on Mental Health and the Legislature.

(c) The Organization of Mental Health Advisory Boards may, pursuant to contract with the State Department of Mental Health, provide coordination, consultation, and training for local mental health advisory boards.

SEC. 25. Section 5705.5 of the Welfare and Institutions Code is amended to read:

5705.5. It is the intent of the Legislature to encourage counties to contract with nonprofit community organizations in order to provide innovative, noninpatient treatment services for persons specified in this part. Such services should be consistent with program priorities developed by the Director of Mental Health after consultation with the California Council on Mental Health and the Conference of Local Mental Health Directors. Such contracts shall provide for at least one of the following: (a) outpatient services, including indigenous, self-help services, (b) rehabilitative services, (c) precare and aftercare services, including residential facilities and halfway houses. Each contract shall also provide methods for evaluating the effectiveness of the services provided.

SEC. 25.5. Section 5709.8 of the Welfare and Institutions Code is amended to read:

5709.8. The department shall provide treatment and care in the community for judicially committed persons.

Subject to the exemptions contained in Section 5707.1, the department may provide directly, or through contract with private providers or counties, for community treatment of judicially committed patients. Subject to approval by the department, a county may provide these services directly, or may contract with private providers, for such services.

This section shall become operative January 1, 1986.

SEC. 26. Section 5712.01 is added to the Welfare and Institutions Code, to read:

5712.01. Expenditures of mental health funds for fiscal years 1983–84 and 1984–85 shall be audited concurrently during fiscal year 1985–86 pursuant to the requirements contained in Section 5712.1 as modified by this section. No later than January 31, 1986, each county shall notify the department, in writing, of the auditor or auditors who will be conducting these audits and indicate the scheduled beginning date. These audits shall be completed no later than June 30, 1986, and shall be transmitted to the department within 30 days of completion. 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. 27. Section 5750 of the Welfare and Institutions Code is amended to read:

5750. The State Department of Mental Health shall administer this part and shall adopt standards for approval of mental health services, and rules and regulations necessary thereto. However, these standards, rules, and regulations shall be adopted only after consultation with the California Council on Mental Health and the California Conference of Local Mental Health Directors. Adoption of these standards, rules, and regulations shall require approval by the California Conference of Local Mental Health Directors by majority vote of those present at an official session.

If the conference refuses or fails to approve standards, rules, or regulations submitted to it by the State Department of Mental Health for its approval, the State Department of Mental Health may submit these standards, rules, or regulations to the conference at its next meeting, and if the conference again refuses to approve them, the matter shall be referred for decision to a committee composed of the Secretary of the Health and Welfare Agency, the Director of Mental Health, the President of the California Conference of Local Mental Health Directors, the Chairman of the California Council on Mental Health, and a member designated by the State Advisory Health Council.

SEC. 28. Section 5755 of the Welfare and Institutions Code is amended to read:

5755. Each year, the State Department of Mental Health shall adopt and submit to the Legislature a state plan for community mental health services. The director shall consult with the California

Conference of Local Mental Health Directors and the California Council on Mental Health in developing the state plan. The plan shall be updated and amended as necessary.

SEC. 29. Section 5755.1 of the Welfare and Institutions Code is amended to read:

5755.1. The state mental health plan shall be submitted to the California Council on Mental Health and the Advisory Health Council or its successor for review and recommendations as to conformance with California's comprehensive statewide health plan. The state mental health plan shall be submitted for review and recommendations prior to amendments or changes thereto.

SEC. 30. Section 5763 of the Welfare and Institutions Code is amended to read:

5763. There is a California Council on Mental Health to advise and assist the Legislature and the Director of Mental Health in carrying out the provisions of this division. The State Department of Mental Health shall cooperate fully with the California Council on Mental Health by rendering efficient accounting, financial management, personnel, and other reasonable support services when requested by the council in the performance of its powers and duties.

The attachment of the California Council on Mental Health to the State Department of Mental Health shall not limit the council's scope of concern to mental health programs or limit the council's responsibilities or functions regarding all other pertinent state and local programs, as defined in subdivision (c) of Section 5764.

The administrative attachment of the council to the State Department of Mental Health shall not be construed to interfere in any way with the provisions of Section 5766.2 requiring all personnel employed by the council to be responsible to the council.

The council shall consist of 15 appointed voting members. There shall be one member who shall be a member of the California Conference of Local Mental Health Directors. There shall be five members chosen from among the following professions: general medicine, psychiatry, psychology, social work, marriage, family and child counseling, sociology, nursing, and mental health administration. For the purposes of this section, "marriage, family and child counselor" shall mean a licensed marriage, family and child counselor who has received specific instruction in assessment, diagnosis, prognosis, and counseling, and psychotherapeutic treatment of premarital, marriage, family and child relationship dysfunctions which is equivalent to the instruction required for licensure on January 1, 1981. No more than one appointee from each of these categories shall be selected. Nine members shall be representative of the public interest in mental health of which at least four shall be consumers or the parent, spouse, or adult offspring of persons who have received mental health services from a city or county Short-Doyle program or any of its contract agencies, a state hospital or any other public or private nonprofit mental health

agency. At least one of the public interest members shall be a local mental health advisory board member at the time of appointment; one shall be a member of a county board of supervisors; one shall be a lawyer and one shall be an expert in fiscal management. No public interest members shall be members of the professions named above.

Appointments shall reflect a balance of geographic, ethnic, racial, age, linguistic, socioeconomic and sexual factors. Appointees shall have a demonstrated interest in and knowledge of statewide mental health services.

The Governor shall appoint the following nine members of the council: two professional members who are not psychiatrists, and four members of the public who are persons or the parent, spouse, or adult offspring of persons who have received mental health services and three public members who are not consumers. The Chair of the Senate Rules Committee shall appoint the following three members of the council: one psychiatrist; one professional member who is not a psychiatrist; and one member of the general public who is not a consumer. None of the members or the spouse of a member shall be an employee of a state department within the Health and Welfare Agency. The Speaker of the Assembly shall appoint the following three members of the council: two professional members and one member of the general public who is not a consumer. Each member shall hold office for three years.

If prior to the expiration of a term a member ceases to retain the status which qualified him or her for appointment on the council, his or her membership on the council shall terminate and there shall be a vacancy on the council.

The members of the California Council on Mental Health shall serve without compensation but shall be reimbursed for any actual and necessary expenses incurred in connection with the performance of their duties under this chapter.

The California Council on Mental Health shall meet at least quarterly, and on call of the council chairman as often as necessary to fulfill its duties. All meetings and records of the California Council on Mental Health shall be open to the public.

The California Council on Mental Health shall, by majority vote of the voting members, elect its own chair from among the 15 appointed members, and shall establish such committees as it deems necessary or desirable. The council chair shall appoint all members of committees of the California Council on Mental Health.

SEC. 31. Section 5764 of the Welfare and Institutions Code is amended to read:

5764. The California Council on Mental Health shall have the powers and authority necessary to carry out the duties imposed upon it by this chapter including, but not limited to the following:

(a) To advise the Director of Mental Health on the development of the state three-year mental health plan and the system of priorities contained in that plan.

(b) To periodically review all mental health services in California,

conducting independent investigations and studies as necessary. The review shall include comment on pertinent portions of the proposed plans and budgets of all state agencies serving persons with mental disabilities, including the Departments of Education, Rehabilitation, Health Services, Transportation, Social Services, Developmental Services, Employment, Youth Authority, Corrections, and Parks and Recreation and the Office of Statewide Health Planning and Development and may include public hearings. The California Council on Mental Health may prepare such reports as necessary to the Governor, the Legislature, and the Director of Mental Health, and the State Advisory Health Council.

(c) To suggest rules, regulations and standards for the administration of this division.

(d) To encourage the coordination of community mental health resources, with the purpose of avoiding duplication and fragmentation of services.

(e) To mediate disputes between counties and the state arising under this part.

(f) To employ such administrative, technical, and other personnel as may be necessary for the performance of its powers and duties, subject to the approval of the Department of Finance.

(g) To fix the salaries of the personnel employed pursuant to this section which salaries shall be fixed as nearly as possible to conform to salaries established by the Department of Personnel Administration for classes of positions in the state civil service involving comparable duties and responsibilities.

(h) To accept any federal fund granted, by act of Congress or by executive order, for purposes within the purview of the California Council on Mental Health, subject to the approval of the Department of Finance.

(i) To accept any gift, donation, bequest, or grants of funds from private and public agencies for all or any of the purposes within the purview of the California Council on Mental Health, subject to the approval of the Department of Finance.

(j) To act as the state council required by Public Law 94-63 to advise the Director of Mental Health on the development of the Community Mental Health Services Plan. For the purposes of implementing this function of the California Council on Mental Health only, the Director of Mental Health or his designee and the Secretary of the Health and Welfare Agency or his designee shall serve on the council. Additional functions of the council under this section shall include: (1) to develop and implement procedures for conducting the annual review of and for publicizing the Community Mental Health Services Plan; and (2) to submit as part of the state plan, the council's report resulting from such annual review.

(k) To provide coordination, consultation and training for local mental health advisory boards.

SEC. 32. Section 5766 of the Welfare and Institutions Code is amended to read:

5766. The California Council on Mental Health may utilize such staff of the State Department of Mental Health as are available, and such staff of all other public or private agencies which have an interest in the mental health of the public and which are able and willing to provide such services.

SEC. 33. Section 5766.1 of the Welfare and Institutions Code is amended to read:

5766.1. Within the limit of funds allotted for such purposes, the California Council on Mental Health chair, with the concurrence of a majority of the California Council on Mental Health shall appoint such staff as it may require.

SEC. 34. Section 5766.2 of the Welfare and Institutions Code is amended to read:

5766.2. The state council may contract for additional technical assistance with any public or private agency or individual to carry out planning, monitoring, evaluation, and other responsibilities under this division. All personnel employed by the California Council on Mental Health shall be solely responsible, organizationally and administratively, to the state council. The state council shall have responsibility for the selection, hiring, and supervision of all such personnel.

SEC. 35. Section 5767 of the Welfare and Institutions Code is amended to read:

5767. All departments of state government, as well as each facility named in the County Short-Doyle Plan, are encouraged to cooperate with, and provide such information, records, documents, and studies as the California Council on Mental Health may request.

SEC. 36. Notwithstanding any other provision of law, in any county of the first class, as described in Section 28022 of the Government Code, where state employees are transferred to county employment pursuant to the provisions of Chapter 1330 of the Statutes of 1984, and where the county provides different levels of retirement benefits for employees based upon the employees' dates of entry into county service, the county shall permit the transferred employees to enter the retirement plan or tier which provides benefits to county employees whose county service in terms of months and years is equal to the months and years of state service of the transferred employees.

This section shall apply only if the Director of Mental Health agrees by contract to reimburse the county annually for retirement contributions, which are over and above the amount which the county would contribute for county employees other than such transferred state employees, made on behalf of the transferred employees for so long as any such employees remain in the county retirement system.

SEC. 37. 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. 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:

In order to assure quality mental health services in California by reducing unnecessary and burdensome administration and thereby maximizing funding for treatment programs, it is necessary that this act take effect immediately.

CHAPTER 1233

An act relating to senior centers, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1985 Filed with Secretary of State September 30, 1985]

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

SECTION 1. There is hereby appropriated the sum of three million five hundred eight thousand seven hundred sixty-seven dollars and twenty cents ($3,508,767.20) from the Senior Center Bond Act Fund to the Controller, for allocation as provided in this section, at the request of the Director of the Department of Aging:

(a) The sum of seven hundred sixty-five thousand five hundred six dollars ($765,506) shall be allocated to Planning and Service Area 11, as follows:

Applicant	Amount
City of Ripon	$100,000
Northeast Center/Gianone Park	$140,000
City of Manteca	$260,000
City of Tracy	$165,506
City of Stockton/San Joaquin County Oak Park Community Center	$100,000

(b) The sum of six hundred nine thousand dollars ($609,000) shall be allocated to Planning and Service Area 28, as follows:

Applicant	Amount
City of Dixon/City of Dixon Senior Center	$150,000
Rio Vista Citizens for Seniors/Rio Vista Senior Center	$ 25,000
City of Suisun City/Suisun City Historic Recreational Facility	$125,000

Berryessa Senior Citzens, Inc./Berryessa Senior Center	$209,000
City of Benicia/Senior Citizens Building	$100,000

(c) The sum of five hundred sixty-five thousand twenty-five dollars ($565,025) shall be allocated to Planning and Service Area 3, as follows:

Applicant	Amount
County of Colusa/Colusa County Multipurpose Senior Center	$107,947
Glenn County Senior Centers/Glenn County Multipurpose Senior Center	$112,715
Ridge Area Coalition of Senior Citizens/Paradise Ridge Senior Center	$203,312
Senior Center Joint Powers Agency/Lincoln Street Senior Center	$125,431
County of Plumas/Quincy Memorial Hall	$ 15,650

(d) The sum of six hundred twenty-nine thousand five hundred fifteen dollars ($629,515) shall be allocated to Planning and Service Area 2, as follows:

Applicant	Amount
Modoc County Senior Citizens Assoc., Inc./Modoc County Senior Center	$151,836
Shasta Dam Area Public Utility District/ Central Valley Multipurpose Senior Center	$210,000
The Valley Oaks/Greenview Senior Center	$ 44,752
Modoc County Senior Citizens Assoc., Inc./Stanley Senior Center	$ 82,096
Modoc County Senior Citizens Assoc., Inc./Tulelake Nutrition Site	$ 6,025
City of Mt. Shasta/Mt. Shasta Nutrition Project	$ 15,200
Happy Camp Grange 395	$ 35,275
City of Yreka/Hornbrook Senior Center	$ 11,000
Golden Age Nutrition Project, Inc./Roderick Senior Citizens Center	$ 29,000
Westwood Senior Citizens Club	$ 44,331

(e) The sum of two hundred eighty-four thousand six hundred seventeen dollars ($284,617) shall be allocated to Planning and Service Area 1, as follows:

Applicant	Amount
Humboldt Senior Citizens Council, Inc./Eureka Senior Center	$244,481
Del Norte Senior Center, Inc./Del Norte Senior Center	$ 38,796
Southern Humboldt Senior Center, Inc./Southern Humboldt Senior Center	$ 1,340

(f) The sum of two hundred eighty thousand four hundred one dollars ($280,401) shall be allocated to Planning and Service Area 12, as follows:

Applicant	Amount
Tuolumne, County of/Tuolumne County Senior Center	$175,625
Alpine, County of/Alpine County Senior Center	$ 8,221
Amador County Senior Citizens, Inc./Amador County Senior Center	$ 96,555

(g) The sum of three hundred seventy-four thousand six hundred seventy-three dollars and twenty cents ($374,673.20) shall be allocated to Planning and Service Area 13, as follows:

Applicant	Amount
City of San Juan Bautista/San Juan Bautista Community Center	$27,227.00
Live Oak Senior Center, Inc./Live Oak Senior Center	$22,351.00
California Grey Bears, Inc./California Grey Bears, Multipurpose Senior Center	$99,659.60
City of Hollister/Hollister Community Center	$91,828.00
City of Santa Cruz/Louden Nelson Center/Laurel Senior Center	$99,659.60
Food and Nutrition Services, Inc./Watsonville International Senior Center	$33,948.00

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 ensure that funds are allocated for approved senior center proposals, pursuant to the Senior Center Bond Act of 1984, at the earliest possible time, it is necessary that this act go into immediate effect.

CHAPTER 1234

An act to amend Section 11105 of, and to add Article 3.5 (commencing with Section 11112.1) to Chapter 1 of Title 1 of Part 4 of, the Penal Code, relating to fingerprints, and making an appropriation therefor.

[Approved by Governor September 29, 1985 Filed with Secretary of State September 30, 1985]

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

SECTION 1. (a) The Legislature finds and declares that funds were appropriated to the Department of Justice in the 1983–84 fiscal year for the California Identification System, a multiyear project to automate the department's manual fingerprint files and establish an automated statewide system for identifying latent fingerprints. This system will allow California law enforcement agencies to solve many presently unsolvable crimes and greatly improve the ability of those agencies to identify criminal offenders. In order to maximize the benefits of the California Identification System, local law enforcement agencies will require direct access to the department's automated files for rapid, accurate, and cost-effective identification of individuals. A uniform statewide system allowing local law enforcement agencies direct access to the California Identification System is, therefore, essential to improve the timeliness and accuracy of identification procedures by the statewide criminal justice system.

(b) The Legislature further finds and declares that most local governments will need financial assistance from the state to acquire equipment necessary to directly access the California Identification System. A uniform statewide system allowing local law enforcement agencies direct access to the California Identification System being essential to improve the timeliness and accuracy of identification procedures used by the criminal justice system, it is, therefore, the intent of the Legislature to provide funding to purchase remote access equipment necessary for local law enforcement agencies.

SEC. 2. Section 11105 of the Penal Code is amended to read:

11105. (a) (1) The Department of Justice shall maintain state summary criminal history information.

(2) As used in this section:

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

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

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

(1) The courts of the state.

(2) Peace officers of the state as defined in Section 830.1, subdivisions (a), (b), and (f) of Section 830.2, subdivision (a) of Section 830.3, subdivisions (a) and (b) of Section 830.5, and subdivision (a) of Section 830.31.

(3) District attorneys of the state.

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

(5) Probation officers of the state.

(6) Parole officers of the state.

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

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

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

(10) Any city or county, or city and county, or district, or any officer, or official thereof when access is needed in order to assist such agency, officer, or official in fulfilling employment, certification, or licensing duties, and when such access is specifically authorized by the city council, board of supervisors or governing board of the city, county, or district when such criminal history information is required to implement a statute, ordinance, or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon such specified criminal conduct.

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

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

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

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

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

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

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

(3) To a peace officer of another country.

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

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

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

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

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

(9) Any public utility as defined in Section 216 of the Public Utilities Code, when access is needed in order to assist in employing current or prospective employees who in the course of their employment may be seeking entrance to private residences. The information provided shall be limited to the record of convictions and any arrest for which the person is released on bail or on his or her own recognizance pending trial.

If the Attorney General supplies the data pursuant to this paragraph, the Attorney General shall furnish a copy of the data to the current or prospective employee to whom the data relates.

Any information obtained from the state summary criminal history is confidential and the receiving public utility shall not disclose its contents, other than for the purpose for which it was acquired. The state summary criminal history information in the possession of the public utility and all copies made from it shall be destroyed not more

than 30 days after employment or promotion or transfer is denied or granted, except for those cases where a current or prospective employee is out on bail or on his or her own recognizance pending trial, in which case the state summary criminal history information and all copies shall be destroyed not more than 30 days after the case is resolved.

A violation of any of the provisions of this paragraph is a misdemeanor, and shall give the current or prospective employee who is injured by the violation a cause of action against the public utility to recover damages proximately caused by the violations. Any public utility's request for state summary criminal history information for purposes of employing current or prospective employees who may be seeking entrance to private residences in the course of their employment shall be deemed a "compelling need" as required to be shown in this subdivision.

Nothing in this section shall be construed as imposing any duty upon public utilities to request state summary criminal history information on any current or prospective employees.

(10) To any campus of the California State University and Colleges or the University of California, or any four-year college or university accredited by a regional accreditation organization approved by the United States Department of Education, when needed in conjunction with an application for admission by a convicted felon to any special education program for convicted felons, including, but not limited to, university alternatives and halfway houses. Only conviction information shall be furnished. The college or university may require the convicted felon to be fingerprinted, and any inquiry to the department under this section shall include the convicted felon's fingerprints and any other information specified by the department.

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

(e) Whenever state summary criminal history information is furnished as the result of an application and is to be used for employment, licensing or certification purposes, the Department of Justice may charge the person or entity making the request a fee which it determines to be sufficient to reimburse the department for the cost of furnishing such information. In addition, the Department of Justice may add a surcharge to the fee to fund maintenance and improvements to the systems from which the information is obtained. Notwithstanding any other provisions of law, any person or entity required to pay a fee to the department for information received under this section may charge the applicant a fee sufficient

to reimburse the person or entity for such expense. All moneys received by the department pursuant to this section, Section 12054 of the Penal Code, and Section 13588 of the Education Code shall be deposited in a special account in the General Fund to be available for expenditure by the department to offset costs incurred pursuant to such sections and for maintenance and improvements to the systems from which the information is obtained when appropriated by the Legislature therefor.

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

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

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

SEC. 2.5. Section 11105 of the Penal Code is amended to read:

11105. (a) (1) The Department of Justice shall maintain state summary criminal history information.

(2) As used in this section:

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

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

(b) The Attorney General shall furnish state summary criminal history information to any of the following, when needed in the course of their duties, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, including certification required pursuant to Section 13848, or licensing duties, the provisions of Chapter 1321 of the Statutes of 1974 and of Section 432.7 of the Labor Code shall apply:

(1) The courts of the state.

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

subdivision (a) of Section 830.31.

(3) District attorneys of the state.

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

(5) Probation officers of the state.

(6) Parole officers of the state.

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

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

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

(10) Any city or county, or city and county, or district, or any officer, or official thereof when access is needed in order to assist such agency, officer, or official in fulfilling employment, certification, or licensing duties, and when such access is specifically authorized by the city council, board of supervisors or governing board of the city, county, or district when such criminal history information is required to implement a statute, ordinance, or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon such specified criminal conduct.

(11) The subject of the state summary criminal history information under procedures established under Article 5 (commencing with Section 11120).

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

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

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

(15) Local law enforcement agencies for certification purposes, as expressly authorized by Chapter 5.5 (commencing with Section 13848) of Title 6.

(c) The Attorney General may furnish state summary criminal history information upon a showing of a compelling need to any of the following, provided that when information is furnished to assist

an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties, the provisions of Chapter 1321 of the Statutes of 1974 and of Section 432.7 of the Labor Code shall apply:

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

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

(3) To a peace officer of another country.

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

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

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

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

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

(9) Any public utility as defined in Section 216 of the Public Utilities Code, when access is needed in order to assist in employing current or prospective employees who in the course of their employment may be seeking entrance to private residences. The information provided shall be limited to the record of convictions and any arrest for which the person is released on bail or on his or her own recognizance pending trial.

If the Attorney General supplies the data pursuant to this paragraph, the Attorney General shall furnish a copy of the data to the current or prospective employee to whom the data relates.

Any information obtained from the state summary criminal history is confidential and the receiving public utility shall not disclose its contents, other than for the purpose for which it was acquired. The state summary criminal history information in the possession of the public utility and all copies made from it shall be destroyed not more than 30 days after employment or promotion or transfer is denied or granted, except for those cases where a current or prospective employee is out on bail or on his or her own recognizance pending

trial, in which case the state summary criminal history information and all copies shall be destroyed not more than 30 days after the case is resolved.

A violation of any of the provisions of this paragraph is a misdemeanor, and shall give the current or prospective employee who is injured by the violation a cause of action against the public utility to recover damages proximately caused by the violations. Any public utility's request for state summary criminal history information for purposes of employing current or prospective employees who may be seeking entrance to private residences in the course of their employment shall be deemed a "compelling need" as required to be shown in this subdivision.

Nothing in this section shall be construed as imposing any duty upon public utilities to request state summary criminal history information on any current or prospective employees.

(10) To any campus of the California State University and Colleges or the University of California, or any four-year college or university accredited by a regional accreditation organization approved by the United States Department of Education, when needed in conjunction with an application for admission by a convicted felon to any special education program for convicted felons, including, but not limited to, university alternatives and halfway houses. Only conviction information shall be furnished. The college or university may require the convicted felon to be fingerprinted, and any inquiry to the department under this section shall include the convicted felon's fingerprints and any other information specified by the department.

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

(e) Whenever state summary criminal history information is furnished as the result of an application and is to be used for employment, licensing or certification purposes, the Department of Justice may charge the person or entity making the request a fee which it determines to be sufficient to reimburse the department for the cost of furnishing such information. In addition, the Department of Justice may add a surcharge to the fee to fund maintenance and improvements to the systems from which the information is obtained. Notwithstanding any other provisions of law, any person or entity required to pay a fee to the department for information received under this section may charge the applicant a fee sufficient to reimburse the person or entity for such expense. All moneys received by the department pursuant to this section, Section 12054 of the Penal Code, and Section 13588 of the Education Code shall be

deposited in a special account in the General Fund to be available for expenditure by the department to offset costs incurred pursuant to such sections and for maintenance and improvements to the systems from which the information is obtained when appropriated by the Legislature therefor.

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

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

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

SEC. 3. Article 3.5 (commencing with Section 11112.1) is added to Chapter 1 of Title 1 of Part 4 of the Penal Code, to read:

Article 3.5. Fingerprints

11112.1. As used in this article:

(a) "California Identification System" or "Cal-ID" means the automated system maintained by the Department of Justice for retaining fingerprint files and identifying latent fingerprints.

(b) "Remote Access Network" or "RAN" means a uniform statewide network of equipment and procedures allowing local law enforcement agencies direct access to the California Identification System.

(c) "Department" means the Department of Justice.

(d) "Cal-ID Telecommunications System" means a statewide telecommunications network dedicated to the transmission of fingerprint identification data in conjunction with Cal-ID for use by law enforcement agencies.

11112.2. The department shall develop a master plan recommending the type, number, and location of equipment necessary to implement RAN. The department shall also develop policy guidelines, and administrative procedures to facilitate implementation and use of RAN. The RAN master plan shall include reasonable interface specifications to access Cal-ID and shall be provided to any supplier of automated fingerprint identification systems interested in bidding on RAN by May 15, 1986.

11112.3. (a) The Attorney General shall appoint a RAN Advisory Committee to review the master plan, policy guidelines, and administrative procedures prepared by the department and advise the Attorney General of any modifications the committee deems necessary. Final approval and acceptance of the RAN Advisory

Committee proposals shall be made by the Attorney General.

(b) The RAN Advisory Committee shall be composed of one representative from each of the following: The League of California Cities, California Peace Officers' Association, California District Attorneys' Association, California Police Chiefs' Association, California State Sheriffs' Association, County Supervisors' Association of California, Department of General Services, Office of Information Technology, and the Department of Justice. The members of the committee shall select a chairperson. The members shall serve without compensation, but reasonable and necessary travel and per diem expenses incurred by committee members shall be reimbursed by the department. The RAN Advisory Committee shall terminate January 1, 1989, unless extended by legislation enacted prior thereto.

11112.4. (a) Within each county or group of counties eligible to receive funding under the department's master plan for equipment, which elects to participate in the remote access network, a local board shall be established to determine the placement of RAN equipment within the county, and to coordinate acceptance, delivery, and installation. The board shall also develop any procedures necessary to regulate the ongoing use and maintenance of that equipment, adhering to the policy guidelines and procedures adopted by the department. The local board shall consider placement of equipment on the basis of the following criteria:

(1) The crime rate of the jurisdiction or jurisdictions served by the agency.

(2) The number of criminal offenses reported by the agency or agencies to the department.

(3) The potential number of fingerprint cards and latent fingerprints processed.

(4) The number of sworn personnel of the agency or agencies.

(b) Except as provided in subdivision (c), each local board shall be composed of seven members, as follows: a member of the board of supervisors, the sheriff, the district attorney, the chief of police of the department having the largest number of sworn personnel within the county, a second chief selected by all other police chiefs within the county, a mayor elected by the city selection committee established pursuant to Section 50270 of the Government Code, and a member-at-large chosen by the other members. In any county lacking two chiefs of police, a substitute member shall be selected by the other members on the board. Groups of counties forming a local region shall establish a seven-member board with each county having equal representation on the board and at least one member-at-large. If the number of participating counties precludes equal representation on a seven-member board, the size of the board shall be expanded so that each county has at least two representatives and there is a single member-at-large.

(c) In any county with a population of 5,000,000 or more, each local board shall be composed of seven members, as follows: a

member of the board of supervisors, the sheriff, the district attorney, the chief of police of the department having the largest number of sworn personnel within the county, a second chief selected by all other police chiefs within the county, the mayor of the city with the greatest population within the county, and a member-at-large chosen by the other members. In any county lacking two chiefs of police, a substitute member shall be selected by the other members of the board.

11112.5. (a) Costs for equipment purchases based upon the master plan approved by the Attorney General, including state sales tax, freight, insurance, and installation, shall be prorated between the state and local governmental entity. The state's share shall be 70 percent. The local government's share shall be 30 percent, paid in legal tender. Purchases may be made under the existing Cal-ID contract through the Department of General Services.

(b) Alternatively, at the discretion of the local board, an independent competitive procurement may be initiated under the following conditions:

(1) Prior to submitting a bid in an independent procurement, any prospective bidder must demonstrate the ability to meet or exceed performance levels established in the existing Cal-ID contract and demonstrate the ability to interface with Cal-ID and meet or exceed performance levels established in the existing Cal-ID contract without degrading the performance of the Cal-ID system.

(2) Both qualifying benchmarks will be at the prospective bidder's expense and will be conducted by the Department of Justice.

(3) In the event that no vendor other than the existing contract vendor qualifies to bid, purchases shall be made by the Department of General Services on behalf of local agencies pursuant to the existing Cal-ID contract.

(c) Competitive local procurements must adhere to the following guidelines:

(1) Administrative requirements contained within Section 5200 of the State Administrative Manual shall be met.

(2) Local procurements shall not increase the costs the state would otherwise be obligated to pay.

(3) Final bids submitted in an independent procurement shall contain a signed contract that represents an irrevocable offer that does not materially deviate from the terms and conditions of the existing Cal-ID contract.

(4) The selected vendor shall post a performance bond in an amount equal to 25 percent of the local equipment costs. The bond shall remain in effect until the local acceptance test has been successfully completed.

(5) Requests for tender, including contract language, shall be approved by the Department of General Services prior to release. The Department of General Services and the Department of Justice shall be represented on the evaluation and selection team.

(d) The local government agency shall be responsible for all costs related to conducting a local bid, site preparation, equipment maintenance, ongoing operational costs, file conversion over and above those records that are available on magnetic media from the Department of Justice, and equipment enhancements or systems design which exceed the basic design specifications of the Department of Justice. The state shall provide sufficient circuitry from Sacramento to each county, or group of counties to handle all fingerprint data traffic. The state shall provide for annual maintenance of that line.

11112.6. (a) The Cal-ID Telecommunications System shall be under the direction of the Attorney General and shall be used exclusively for the official business of the state, and the official business of any city, county, city and county, or other public agency.

(b) The Cal-ID Telecommunications System shall provide telecommunication lines to one location in every participating county.

(c) The Cal-ID Telecommunications System shall be maintained at all times by the department with equipment and facilities adequate to meet the needs of law enforcement. The system shall be designed to accommodate present and future data transmission equipment.

11112.7. The Attorney General shall provide an annual status report to the Legislature beginning January 1, 1987, with the final report due January 1, 1989. The report shall include the status of the project to date, funds expended, and need, if any, for revision to the master plan.

SEC. 4. The sum of seven million dollars ($7,000,000) is hereby appropriated from the General Fund to the Department of Justice to provide the funding for purchases of computing equipment and telecommunications equipment and services, including interface development, and for expenses related to the California Identification System, pursuant to this act, to be available for expenditure through June 30, 1987.

SEC. 5. Section 2.5 of this bill incorporates amendments to Section 11105 of the Penal Code proposed by both this bill and AB 1587. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 11105 of the Penal Code, and (3) this bill is enacted after AB 1587, in which case Section 2 of this bill shall not become operative.

CHAPTER 1235

An act to amend Section 43151, to amend, repeal, and add Section 43156 of, and to add Section 43203.5 to, the Health and Safety Code, and to amend Sections 4453 and 11705 of the Vehicle Code, relating to air pollution.

[Approved by Governor September 29, 1985 Filed with Secretary of State September 30, 1985]

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

SECTION 1. Section 43151 of the Health and Safety Code is amended to read:

43151. (a) No person who is a resident of, or who operates an established place of business within, this state shall import, deliver, purchase, rent, lease, acquire, or receive a new motor vehicle, new motor vehicle engine, or motor vehicle with a new motor vehicle engine for use, registration, or resale in this state unless such motor vehicle engine or motor vehicle has been certified pursuant to this chapter. No person shall attempt or assist in any such action.

(b) This article shall not apply to a vehicle acquired by a resident of this state for the purpose of replacing a vehicle registered to such resident which was damaged or became inoperative beyond reasonable repair or was stolen while out of this state; provided that such replacement vehicle is acquired out of state at the time the previously owned vehicle was either damaged or became inoperative or was stolen. This article shall not apply to a vehicle transferred by inheritance, or by a decree of divorce, dissolution, or legal separation entered by a court of competent jurisdiction, or to any vehicle sold after the effective date of the amendments to this subdivision at the 1979–80 Regular Session of the Legislature if the vehicle was registered in this state before such effective date.

(c) This chapter shall not apply to any motor vehicle having a certificate of conformity issued pursuant to the Clean Air Act (42 U.S.C. Sec. 7401 et seq.) and originally registered in another state by a resident of that state who subsequently establishes residence in this state and who, upon registration of the vehicle in this state, provides satisfactory evidence to the Department of Motor Vehicles of the previous residence and registration. This subdivision shall become operative 180 calendar days after the state board adopts regulations for the certification of new direct import vehicles pursuant to Section 43203.5.

(d) "Established place of business," as used in this section, means a place actually occupied either continuously or at regular periods.

SEC. 2. Section 43156 of the Health and Safety Code is amended to read:

43156. For purposes of this article, it is conclusively presumed that the equitable or legal title to a motor vehicle, other than a motorcycle, with an odometer reading of 7,500 miles or more has been transferred to an ultimate purchaser and that the equitable or legal title to a motor vehicle, other than a motorcycle, with an odometer reading of less than 7,500 miles has not been transferred to an ultimate purchaser.

For purposes of this article, it is conclusively presumed that the equitable or legal title to a motorcycle with an odometer reading of

1,350 miles or more has been transferred to an ultimate purchaser and that the equitable or legal title to a motorcycle with an odometer reading of less than 1,350 miles has not been transferred to an ultimate purchaser.

This section shall remain in effect only until 180 days after the state board adopts regulations for the certification of new direct import vehicles pursuant to Section 43203.5.

SEC. 3. Section 43156 is added to the Health and Safety Code, to read:

43156. (a) For purposes of this article, it is conclusively presumed that the equitable or legal title to a motor vehicle, other than a motorcycle, with an odometer reading of 7,500 miles or more, has been transferred to an ultimate purchaser, except as provided in subdivision (b), and that the equitable or legal title to a motor vehicle, other than a motorcycle, with an odometer reading of less than 7,500 miles, has not been transferred to an ultimate purchaser.

(b) For purposes of this article, it is conclusively presumed that the equitable and legal title to a new direct import vehicle, as defined by Section 43203 5, which is less than two years old, has not been transferred to an ultimate purchaser and that the equitable or legal title to a new direct import motor vehicle, which is at least two years old, has been transferred to an ultimate purchaser.

For purposes of this subdivision, the age of a motor vehicle shall be determined by the following, in descending order of preference:

(1) From the first calendar day of the model year as indicated in the vehicle identification number.

(2) From the last calendar day of the month the vehicle was delivered by the manufacturer as shown on the foreign title document.

(3) From January 1 of the same calendar year as the model year shown on the foreign title document.

(4) From the last calendar day of the month the foreign title document was issued.

(c) For purposes of this article, it is conclusively presumed that the equitable or legal title to a motorcycle with an odometer reading of 1,350 miles or more has been transferred to an ultimate purchaser and that the equitable or legal title to a motorcycle with an odometer reading of less than 1,350 miles has not been transferred to an ultimate purchaser.

(d) This section shall become operative 180 days after the state board adopts regulations for the certification of new direct import vehicles pursuant to Section 43203.5.

SEC. 4. Section 43203.5 is added to the Health and Safety Code, to read:

43203.5. The state board shall adopt, by regulation, a certification program for new direct import vehicles. As used in this section, "new direct import vehicle" means any light duty motor vehicle manufactured outside of the United States and not intended by the manufacturer for sale in the United States which is less than two

years old and was not certified by the state board pursuant to Article 1 (commencing with Section 43100). The state board shall issue a certificate of conformance to each new direct import vehicle which meets the requirements of the certification program. Any bonding requirements for the certification program may not exceed one thousand dollars ($1,000) per new direct import vehicle or engine.

The model year designation for new direct import vehicles in an engine family shall be determined on the same basis as vehicles in the same engine family which are offered for sale in California by the manufacturer. The model year designation for any new direct import motor vehicle in an engine family which the manufacturer does not offer for sale in California shall be determined in accordance with the regulations adopted by the state board. The designations shall apply for all purposes of the certification program and for registration of new direct import vehicles.

The state board shall, by regulation, impose fees to recover the state board's costs, including enforcement costs, of administration of the certification program. Failure to pay the fees within 60 days of receipt after notification by the state board shall result in the assessment of a 10 percent penalty. An additional interest assessment on the fees equivalent to the rate earned by the Pooled Money Investment Fund shall accrue at the end of each 30-day period that the fees remain unpaid. Nonpayment of the fees for more than one year shall result in the state board withholding future certification of new vehicles for sale in California.

Fees collected in accordance with this section shall be deposited in the Air Pollution Control Fund.

SEC. 5. Section 4453 of the Vehicle Code is amended to read:

4453. (a) The registration card shall contain upon the face thereof the date issued, the name and residence or business address of the owner and of the legal owner, if any, the registration number assigned to the vehicle, and a description of the vehicle as complete as that required in the application for registration of the vehicle.

(b) A motor vehicle of a type included in this subdivision shall be identified as such on the face of the registration card, whenever the department is able to ascertain that fact, at the time application is made for initial registration or transfer of ownership of the vehicle.

(1) A motor vehicle rebuilt and restored to operation which was previously declared to be a total loss salvage vehicle because the cost of repairs exceeds the retail value of the vehicle.

(2) A motor vehicle rebuilt and restored to operation which was previously reported to be dismantled pursuant to Section 11520.

(3) A motor vehicle previously registered to a law enforcement agency and operated in law enforcement work.

(4) A motor vehicle formerly operated as a taxicab as defined in subdivision (c) of Section 27908.

(5) A motor vehicle manufactured outside of the United States and not intended by the manufacturer for sale in the United States.

(c) The director may modify the form, arrangement, and

information appearing on the face of the registration card and may provide for standardization and abbreviation of fictitious or firm names thereon whenever the director finds that the efficiency of the department will be promoted thereby, except that general delivery or post office box numbers shall not be permitted as the address of the registered owner unless there is no other address.

SEC. 6. Section 11705 of the Vehicle Code is amended to read:

11705. (a) The department, after notice and hearing, may suspend or revoke the license issued to a dealer, transporter, manufacturer, manufacturer branch, remanufacturer, remanufacturer branch, distributor, or distributor branch upon determining that the person to whom the license was issued is not lawfully entitled thereto, or has committed any of the following acts:

(1) Filed an application for the license thereafter issued using a false or fictitious name not registered with the proper authorities, or knowingly made any false statement or knowingly concealed any material fact, in the application for the license.

(2) Has made, or knowingly or negligently permitted, any illegal use of the special plates issued to the licensee.

(3) Has used a false or fictitious name, knowingly made any false statement, or knowingly concealed any material fact, in any application for the registration of a vehicle, or otherwise committed a fraud in the application.

(4) Failed to deliver to a transferee lawfully entitled thereto a properly endorsed certificate of ownership.

(5) Has knowingly purchased, sold, or otherwise acquired or disposed of a stolen motor vehicle.

(6) Failed to provide and maintain a clear physical division between the type of business licensed pursuant to this chapter and any other type of business conducted at the established place of business.

(7) Has willfully violated any of the terms or provisions of Sections 3064 and 3065 or rules and regulations adopted pursuant thereto or adopted pursuant to Section 1651.

(8) Has violated one or more of the terms and provisions of Division 3 (commencing with Section 4000) or a rule or regulation adopted pursuant thereto, or Section 1651, or subdivision (a) of Section 38200.

(9) Has violated one or more of the terms and conditions of Division 4 (commencing with Section 10500) or the rules and regulations adopted pursuant thereto or adopted pursuant to Section 1651.

(10) Has violated one or more of the provisions of Article 1 (commencing with Section 11700) of Chapter 4 of Division 5 or rules and regulations adopted pursuant thereto or adopted pursuant to Section 1651.

(11) Has violated any of the terms or provisions of Part 5 (commencing with Section 10701) of Division 2 of the Revenue and Taxation Code or rules and regulations adopted pursuant thereto or

adopted pursuant to Section 1651.

(12) Has violated any of the terms or provisions of Chapter 2b (commencing with Section 2981) of Title 14 of Part 4 of Division 3 of the Civil Code or the rules and regulations adopted pursuant thereto under the authority of Section 1651.

(13) Has submitted a check, draft, or money order to the department for any obligation or fee due the state and it is thereafter dishonored or refused payment upon presentation.

(14) Has caused any person to suffer any loss or damage by reason of any fraud or deceit practiced on that person or fraudulent representations made to that person in the course of the licensed activity.

For purposes of this subdivision, "fraud" includes any act or omission which is included within the definition of either "actual fraud" or "constructive fraud" as defined in Sections 1572 and 1573 of the Civil Code, and the term "deceit" has the same meaning as defined in Section 1710 of the Civil Code. In addition, "fraud" and "deceit" include, but are not limited to, the following: a misrepresentation in any manner, whether intentionally false or due to gross negligence, of a material fact; a promise or representation not made honestly and in good faith; an intentional failure to disclose a material fact; any act falling within the provisions of Section 484 of the Penal Code.

(15) Has failed to meet the terms and conditions of an agreement effected under the provisions of Section 11707.

(16) Has violated any terms or provisions of Section 43151, 43152, or 43153 of the Health and Safety Code.

(b) Any of the causes specified in Section 11703 as a cause for refusal to issue a license to a transporter, manufacturer, manufacturer branch, remanufacturer, remanufacturer branch, distributor, distributor branch, or dealer applicant is cause to suspend or revoke a license issued to a transporter, manufacturer, manufacturer branch, remanufacturer, remanufacturer , branch, distributor, distributor branch, or dealer.

(c) Except as provided in Section 11707, every hearing, as provided for in this section, shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

CHAPTER 1236

An act to add Chapter 8 (commencing with Section 2760) to Division 3 of the Fish and Game Code, and to add and repeal Section 6217.1 of the Public Resources Code, relating to fish and game, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1985 Filed with Secretary of State September 30, 1985.]

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

SECTION 1. Chapter 8 (commencing with Section 2760) is added to Division 3 of the Fish and Game Code, to read:

CHAPTER 8. FISHERIES RESTORATION

2760. This chapter shall be known and may be cited as the Fisheries Restoration Act of 1985.

2761. The Legislature finds and declares as follows:

(a) Many of California's significant fish and wildlife resources in inland and coastal waters have declined as the result of many development projects which have provided valuable economic growth.

(b) Fish and wildlife have been adversely affected by water developments that have significantly altered water flows in many of California's rivers and streams, thereby affecting fish and wildlife, their habitat, adjacent riparian habitat, spawning areas, and migration routes.

(c) Fish and wildlife are important public resources with significant economical, environmental, recreational, aesthetic, and educational values.

(d) California intends to make reasonable efforts to prevent further declines in fish and wildlife, intends to restore fish and wildlife to historic levels where possible, and intends to enhance fish and wildlife resources where possible.

2762. (a) The Fisheries Restoration Account is hereby created in the Fish and Game Preservation Fund. The moneys in the Fisheries Restoration Account are hereby appropriated for each of the 1985–86 and 1986–87 fiscal years to the department for expenditure pursuant to subdivision (b).

(b) The moneys in the Fisheries Restoration Account may be expended for the construction, operation, and administration of projects designed to restore and maintain fishery resources and their habitat that have been damaged by past water diversions and projects and other development activities. Expenditures shall not be authorized for a project to be funded under this subdivision before a date which is 30 days after the department has furnished a copy of the proposal for the project to be funded, together with supporting descriptions, to the Joint Committee on Fisheries and Aquaculture and to the Joint Legislative Budget Committee. These projects shall have as their primary objective the restoration of fishery resources. Projects may include, but shall not be limited to, the acquisition of lands, restoration of habitat, restoration or creation of spawning areas, kelp restoration, artificial reef construction, construction of fish screens or fish ladders, stream rehabilitation, and installation of

pollution control facilities. Projects for restoration or creation of spawning areas shall utilize natural spawning rather than hatcheries to the extent possible.

Under no circumstances shall any water project be absolved under this subdivision of any mitigation requirements which are placed upon it under existing law.

No land shall be acquired pursuant to this chapter by eminent domain proceedings.

(c) Priority for funding shall be given to projects that employ fishermen, fish processing workers, and others who are unemployed or underemployed due to the elimination of a commercial fishing season as a result of restrictions imposed by federal regulations. This priority shall remain in effect only as long as those restrictions are in force.

2763. The director shall consult with the Resources Agency, the Department of Water Resources, the State Water Resources Control Board, the State Coastal Conservancy, the San Francisco Bay Conservation and Development Commission, and the California Coastal Commission in determining projects proposed for funding pursuant to Section 2762.

2764. The director shall consult with other responsible state agencies and appropriate fishery advisory committees, including, but not limited to, the Advisory Committee on Salmon and Steelhead Trout and the Striped Bass Stamp Advisory Committee, in developing projects to be funded pursuant to Section 2762.

2765. The California Water Commission, in any recommendation it may make to the Congress of the United States on funding for water projects, shall include recommendations for studies, programs, and facilities necessary to correct fish and wildlife problems cause, fully or partially, by federal water facilities and operation, including, but not limited to, all of the following:

(a) The Red Bluff Dam.

(b) The Trinity and Lewiston Dams.

(c) The facilities necessary to protect wildlife areas in the Suisun Marsh and the Sacramento-San Joaquin Delta from adverse water quality effects caused by the federal Central Valley Project.

(d) The Kesterson Reservoir and the San Luis Drain.

SEC. 2. Section 6217.1 is added to the Public Resources Code, to read:

6217.1. (a) There is hereby transferred to the Fisheries Restoration Account in the Fish and Game Preservation Fund the amount of five million dollars ($5,000,000) for each of the 1985–86 and 1986–87 fiscal years from revenues, moneys, and remittances deposited by the commission pursuant to Section 6217, which amounts shall be transferred after the allocation is made pursuant to subdivision (b) of Section 6217 but before the allocation is made pursuant to subdivision (c) of Section 6217.

(b) 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. 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:

Because of the severe decline in a number of fishery resources and their habitat, the elimination of the commercial salmon fishing season for northern California, and the economic effect of recent back to back poor fishing seasons caused by adverse climatic conditions, it is necessary that this act take effect immediately.

CHAPTER 1237

An act to amend Sections 42238 and 42238.4 of the Education Code, and to amend Item 6100-101-001 of Section 2.00 of Chapter 111 of the Statutes of 1985, relating to school finance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1985 Filed with Secretary of State September 30, 1985.]

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

SECTION 1. Section 42238 of the Education Code is amended to read:

42238. (a) For the 1984–85 fiscal year and each fiscal year thereafter, the county superintendent of schools shall determine a revenue limit for each school district in the county pursuant to this section.

(b) The base revenue limit for the current fiscal year shall be determined by adding to the base revenue limit for the prior fiscal year the following amounts:

(1) The inflation adjustment specified in Section 42238.1.

(2) For the 1985–86 fiscal year only, the equalization adjustment specified in Section 42238.4.

(3) For the 1985–86 fiscal year, the amount received per unit of average daily attendance in the 1984–85 fiscal year pursuant to Section 42238.7.

(4) For the 1985–86, 1986–87, and 1987–88 fiscal years, the amount per unit of average daily attendance received in the prior fiscal year pursuant to Section 42238.8.

(c) Except for districts subject to subdivision (d), the base revenue limit computed pursuant to subdivision (b) shall be multiplied by the district average daily attendance computed pursuant to Section 42238.5.

(d) For districts for which the number of units of average daily attendance determined pursuant to Section 42238.5 is greater for the

current fiscal year than for the 1982–83 fiscal year, compute the following amount, in lieu of the amount computed pursuant to subdivision (c):

(1) Multiply the base revenue limit computed pursuant to subdivision (c) by the average daily attendance computed pursuant to Section 42238.5 for the 1982–83 fiscal year.

(2) Multiply the lesser of the amount in subdivision (c) or 1.05 times the statewide average base revenue limit per unit of average daily attendance for districts of similar type for the current fiscal year by the difference between the average daily attendance computed pursuant to Section 42238.5 for the current and 1982–83 fiscal years.

(3) Add the amounts in paragraphs (1) and (2).

(e) The base revenue limit per unit of average daily attendance shall be the lesser of the following amounts:

(1) The amount determined in subdivision (b).

(2) The amount computed pursuant to Section 42238 for the prior fiscal year divided by the prior fiscal year revenue limit average daily attendance times the sum of 1.0 and twice the percentage increase in revenue limits computed pursuant to Section 42238.1 for the current fiscal year.

(f) For districts electing to compute units of average daily attendance pursuant to paragraph (3) of subdivision (a) of Section 42238.5, the amount computed pursuant to Article 4 (commencing with Section 42280) shall be added to the amount computed in subdivision (c) or (d), as appropriate.

(g) For the 1984–85 fiscal year only, the county superintendent shall reduce the total revenue limit computed in this section 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, offset by any increase in those contributions, as of the 1983–84 fiscal year, resulting from subsequent changes in employer contribution rates.

The reduction shall be calculated as follows:

(1) Determine the amount of employer contributions which would have been made in the 1983–84 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 1983–84 fiscal year.

(2) Subtract from the amount determined in paragraph (1) the greater of subparagraph (A) or (B):

(A) The amount of employer contributions which would have been made in the 1983–84 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 1983–84 fiscal year.

(B) The actual amount of employer contributions made to the Public Employees' Retirement System in the 1983–84 fiscal year.

(3) For purposes of this subdivision, employer contributions to the Public Employees' Retirement System for any of the following shall

be excluded from the calculation specified above:

(A) Positions supported totally by federal funds which were subject to supplanting restrictions.

(B) Positions supported by funds received pursuant to Section 42243.6.

(C) Positions supported, to the extent of employer contributions not exceeding twenty-five thousand dollars ($25,000) by any single educational 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.

(4) For accounting purposes, the reduction made by this subdivision may be reflected as an expenditure from appropriate sources of revenue as directed by the Superintendent of Public Instruction.

(h) The Superintendent of Public Instruction shall apportion to each school district the amount determined in this section less the sum of:

(1) The district's property tax revenue received pursuant to Chapter 3 (commencing with Section 75) and Chapter 6 (commencing with Section 95) of Part 0.5 of the Revenue and Taxation Code.

(2) The amount, if any, received pursuant to Part 18.5 (commencing with Section 38101) of the Revenue and Taxation Code.

(3) The amount, if any, received pursuant to Chapter 3 (commencing with Section 16140) of the Government Code.

(4) Prior years taxes and taxes on the unsecured roll.

(5) Fifty percent of the amount received pursuant to Section 41603.

(6) The amount of motor vehicle license fees distributed pursuant to Section 11003.4 of the Revenue and Taxation Code.

(i) This section shall become operative July 1, 1984.

SEC. 1.5. Section 42238 of the Education Code is amended to read:

42238. (a) For the 1984–85 fiscal year and each fiscal year thereafter, the county superintendent of schools shall determine a revenue limit for each school district in the county pursuant to this section.

(b) The base revenue limit for the current fiscal year shall be determined by adding to the base revenue limit for the prior fiscal year the following amounts:

(1) The inflation adjustment specified in Section 42238.1.

(2) For the 1985–86 fiscal year only, the equalization adjustment specified in Section 42238.4.

(3) For the 1985–86 fiscal year, the amount received per unit of average daily attendance in the 1984–85 fiscal year pursuant to Section 42238.7.

(4) For the 1985–86, 1986–87, and 1987–88 fiscal years, the amount

per unit of average daily attendance received in the prior fiscal year pursuant to Section 42238.8.

(c) Except for district subject to subdivision (d), the base revenue limit computed pursuant to subdivision (b) shall be multiplied by the district average daily attendance computed pursuant to Section 42238.5.

(d) For districts for which the number of units of average daily attendance determined pursuant to Section 42238.5 is greater for the current fiscal year than for the prior fiscal year, compute the following amount, in lieu of the amount computed pursuant to subdivision (c):

(1) Multiply the base revenue limit computed pursuant to subdivision (b) by the average daily attendance computed pursuant to Section 42238.5 for the prior fiscal year.

(2) Multiply the lesser of the amount in subdivision (c) or 1.05 times the statewide average base revenue limit per unit of average daily attendance for districts of similar type for the current fiscal year by the difference between the average daily attendance computed pursuant to Section 42238.5 for the current and prior fiscal years.

(3) Add the amounts in paragraphs (1) and (2).

(e) The base revenue limit per unit of average daily attendance shall be the lesser of the following amounts:

(1) The amount determined in subdivision (b).

(2) The amount computed pursuant to Section 42238 for the prior fiscal year divided by the prior fiscal year revenue limit average daily attendance times the sum of 1.0 and twice the percentage increase in revenue limits computed pursuant to Section 42238.1 for the current fiscal year.

(f) For districts electing to compute units of average daily attendance pursuant to paragraph (3) of subdivision (a) of Section 42238.5, the amount computed pursuant to Article 4 (commencing with Section 42280) shall be added to the amount computed in subdivision (c) or (d), as appropriate.

(g) For the 1984–85 fiscal year only, the county superintendent shall reduce the total revenue limit computed in this section 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, offset by any increase in those contributions, as of the 1983–84 fiscal year, resulting from subsequent changes in employer contribution rates.

The reduction shall be calculated as follows:

(1) Determine the amount of employer contributions which would have been made in the 1983–84 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 1983–84 fiscal year.

(2) Subtract from the amount determined in paragraph (1) the greater of subparagraph (A) or (B):

(A) The amount of employer contributions which would have

been made in the 1983–84 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 1983–84 fiscal year.

(B) The actual amount of employer contributions made to the Public Employees' Retirement System in the 1983–84 fiscal year.

(3) For purposes of this subdivision, employer contributions to the Public Employees' Retirement System for any of the following shall be excluded from the calculation specified above:

(A) Positions supported totally by federal funds which were subject to supplanting restrictions.

(B) Positions supported by funds received pursuant to Section 42243.6.

(C) Positions supported, to the extent of employer contributions not exceeding twenty-five thousand dollars ($25,000) by any single educational 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.

(4) For accounting purposes, the reduction made by this subdivision may be reflected as an expenditure from appropriate sources of revenue as directed by the Superintendent of Public Instruction.

(h) The Superintendent of Public Instruction shall apportion to each school district the amount determined in this section less the sum of:

(1) The district's property tax revenue received pursuant to Chapter 3 (commencing with Section 75) and Chapter 6 (commencing with Section 95) of Part 0.5 of the Revenue and Taxation Code.

(2) The amount, if any, received pursuant to Part 18.5 (commencing with Section 38101) of the Revenue and Taxation Code.

(3) The amount, if any, received pursuant to Chapter 3 (commencing with Section 16140) of the Government Code.

(4) Prior years taxes and taxes on the unsecured roll.

(5) Fifty percent of the amount received pursuant to Section 41603.

(6) The amount of motor vehicle license fees distributed pursuant to Section 11003.4 of the Revenue and Taxation Code.

(i) This section shall become operative July 1, 1984.

SEC. 2. Section 42238.4 of the Education Code, as added by Section 20.6 of Chapter 498 of the Statutes of 1983, is amended to read:

42238.4. (a) For the 1985–86 fiscal year, the county superintendent shall compute an equalization adjustment for each district so that no district's base revenue limit per unit of average daily attendance is less than the 1984–85 fiscal year statewide average base revenue limit for the appropriate size and type of district listed

in subdivision (b) plus the inflation adjustment specified in Section 42238.1 for the 1985–86 fiscal year for the appropriate type of district. For purposes of this section, the district base revenue limit and the statewide average base revenue limit shall not include any amounts attributable to Section 44492, 45023.4, 46200, or 46201.

(b) For purposes of subdivision (a), districts shall be grouped according to size and type as follows:

District	ADA
Elementary	less than 101
Elementary	more than 100
High School	less than 301
High School	more than 300
Unified	less than 1,501
Unified	more than 1,500

(c) The Superintendent of Public Instruction shall compute a revenue limit equalization adjustment for each school district's base revenue limit per unit of average daily attendance in the 1985–86 fiscal year, as follows:

(1) Add the products of the amount computed for each school district by the county superintendent pursuant to subdivision (a) and the average daily attendance used to calculate the distict's revenue limit for the 1985–86 fiscal year.

(2) Divide the amount appropriated for purposes of this section for the 1985–86 fiscal year by the amount computed pursuant to paragraph (1).

(3) Multiply the amount computed for the school district pursuant to subdivision (a) and the amount computed pursuant to paragraph (2).

SEC. 3. Item 6100-101-001 of Section 2.00 of Chapter 111 of the Statutes of 1985 is amended to read:

6100-101-001—For local assistance, Department of Education, for transfer to Section A of the State School Fund, Program 10.10—School Apportionments..... 6,701,735,000

Schedule:

(a) Program 10.10.001.001—School Apportionments, for the purposes of Section 42238 of the Education Code 6,463,559,000

(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..... 15,491,000

(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 19,126,000

(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..... 60,972,000

(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

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 1985–86 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.
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 immmediately 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 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.

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.
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 "neccessary 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.

(b) The equalization adjustment specified in Section 42238.4 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.

15. Notwithstanding subdivision (b) of Section 46200 of the Education Code, for any school dis-

trict 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 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 "neccessary 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.

SEC. 4. The sum of twenty-one million dollars ($21,000,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction for the 1985–86 fiscal year for purposes of Section 42238.4 of the Education Code.

SEC. 5. Regardless of when this act becomes effective, it is the intent of the Legislature to make changes in state apportionments to school districts for the entire 1985–86 fiscal year. For the purpose of implementing the changes required by Sections 1 and 2 of this act, the Superintendent of Public Instruction and other public officers shall take all necessary steps to effect the required adjustments, including the authority to adjust allowance computations, apportionments, and disbursements ordered from Section A of the State School Fund and other public funds.

SEC. 6. Section 1.5 of this bill incorporates amendments to Section 42238 of the Education Code proposed by both this bill and AB 998. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1986, but this bill becomes operative first, (2) each bill amends Section 42238 of the Education Code, and (3) this bill is enacted after AB 998, in which case Section 42238 of the Education Code, as amended in Section 1 of this bill, shall remain operative only until the operative date of AB 998, at which time Section 1.5 of this bill shall become operative.

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 permit this act to become operative as early as possible in the 1985–86 school year, and so facilitate the orderly administration of the public school system, it is necessary that this act take effect immediately.

CHAPTER 1238

An act to add Section 15276 to the Government Code, relating to communications.

[Approved by Governor September 29, 1985 Filed with Secretary of State September 30, 1985]

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

SECTION 1. Section 15276 is added to the Government Code, to read:

15276. (a) The department shall report to the Legislature and the Governor, on January 31, 1986, on the status of experiments which it is conducting in the use of telecommunications and information systems for telecommuting and teleworking.

(b) The department, in conducting these experiments, may consider the following issues of interest to the Legislature:

(1) The impact of telecommuting and teleworking on the effective delivery of existing state services.

(2) New state services which telecommuting and teleworking may make possible.

(3) The consequences of telecommuting and teleworking for managers and employees of state agencies, including the quality of worklife within state agencies.

(4) The opportunities created by telecommuting and teleworking for the employment of, and the enhancement of working life for, persons with disabilities.

CHAPTER 1239

An act to amend Section 1987.5 of the Code of Civil Procedure, to amend Section 41020 of, and to add Section 41020.1 to, the Education Code, to amend Section 26826 of the Government Code, and to amend Section 5362 of the Welfare and Institutions Code, relating to local government.

[Approved by Governor September 29, 1985 Filed with Secretary of State September 30, 1985]

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

SECTION 1. Section 1987.5 of the Code of Civil Procedure is amended to read:

1987.5. The service of a subpoena duces tecum is invalid unless at the time of such service a copy of the affidavit upon which the subpoena is based is served on the person served with the subpoena. In the case of a subpoena duces tecum which requires appearance

and the production of matters and things at the taking of a deposition, the subpoena shall not be valid unless a copy of the affidavit upon which the subpoena is based and the designation of the materials to be produced, as set forth in the subpoena, is attached to the notice of taking the deposition served upon each party or its attorney as provided in Chapter 3 (commencing with Section 2002). If matters and things are produced pursuant to a subpoena duces tecum in violation of this section, any other party to the action may file a motion for, and the court may grant, an order providing appropriate relief, including, but not limited to, exclusion of the evidence affected by the violation, a retaking of the deposition notwithstanding any other limitation on discovery proceedings, or a continuance. The party causing the subpoena to be served shall retain the original affidavit until final judgment in the action, and shall file the affidavit with the court only upon reasonable request by any party or witness affected thereby.

SEC. 2. Section 41020 of the Education Code is amended to read:

41020. It is the intent of the Legislature to encourage sound fiscal management practices among school districts for the most efficient and effective use of public funds for the education of children in California by strengthening fiscal accountability at the district, county, and state levels.

Not later than the first day of May of each fiscal year each county superintendent of schools shall provide for an audit of all funds under his jurisdiction and control and the governing board of each district shall either provide for an audit of the books and accounts of the district, including an audit of school district income and expenditures by source of funds, or make arrangements with the county superintendent of schools having jurisdiction over the district to provide for such auditing. In the event the governing board of a school district has not provided for an audit of the books and accounts of the district by April 1st, the county superintendent of schools having jurisdiction over the district shall provide for the audit.

Each audit shall include all funds of the district including the student body and cafeteria funds and accounts and any other funds under the control or jurisdiction of the district; funds of regional occupational centers and programs maintained by the county superintendent of schools, a school district, or pursuant to a joint powers agreement. Each audit shall also include an audit of attendance procedures.

The cost of the audits provided for by the county superintendent of schools shall be paid from the county school service fund and the county superintendent of schools shall transfer the pro rata share of the cost chargeable to each district from district funds.

The cost of the audit provided for by a governing board shall be paid from district funds. The audit of the funds under the jurisdiction and control of the county superintendent of schools shall be paid from the county school service fund.

The audits shall be made by a certified public accountant or a

public accountant, licensed by the State Board of Accountancy.

The auditor's report shall include (1) a statement that the audit was conducted pursuant to standards and procedures developed in accordance with Chapter 3 (commencing with Section 14500) of Part 9 of Division 1 of Title 1 and (2) a summary of audit exceptions and management improvement recommendations.

Not later than November 15th, a report of each audit for the preceding fiscal year shall be filed with the county superintendent of schools of the county in which the district is located, the Department of Education, and the Controller. The submission date may be extended to, but not later than, December 31 for justifiable cause upon written request by the auditor and approval by the county superintendent of schools. The Superintendent of Public Instruction shall make any adjustments necessary in future apportionments of all state funds, to correct any audit exceptions revealed by such audit reports.

Each county superintendent of schools shall be responsible for the correction of any audit exceptions revealed by audit reports issued pursuant to this section which do not affect state funds and are not corrected by the Superintendent of Public Instruction when the audit exceptions affect any revenue and expenditures under his control or the control of any school district within his jurisdiction. The county superintendent of schools shall adjust the future local property tax requirements to correct audit exceptions relating to school district tax rates and tax revenues.

If a governing board or county superintendent of schools fails or is unable to make satisfactory arrangements for audit pursuant to this section, the Controller shall make arrangements for the audit and the cost of such audit shall be paid from school district funds or the county school service fund, as the case may be.

Audits of regional occupational centers and programs are subject to the provisions of this section.

Nothing in this section shall be considered as authorizing examination into or report on the curriculum used or provided for in any school district.

SEC. 3. Section 41020.1 is added to the Education Code, to read:

41020.1. Reports of audits previously filed with the county clerk pursuant to Section 41020 shall be disposed of by the county clerk or returned to the respective superintendent of schools.

SEC. 4. Section 26826 of the Government Code, as amended by Chapter 96 of the Statutes of 1985, 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 term "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 court 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.

(6) A stipulation to modify a marital settlement agreement which was signed by a defaulted respondent and incorporated in a decree of dissolution if the stipulation is presented by the petitioner.

SEC. 5. Section 5362 of the Welfare and Institutions Code is amended to read:

5362. (a) The clerk of the superior court shall notify each conservator, his or her conservatee and the person in charge of the facility in which the person resides, and the conservatee's attorney, at least 60 days before the termination of the one-year period. If the conservator is a private party, the clerk of the superior court shall also notify the mental health director and the county officer providing conservatorship investigation pursuant to Section 5355, at least 60 days before the termination of the one-year period. Notification shall be given in person or by first-class mail. The notification shall be in substantially the following form:

In the Superior Court of the State of California
for the County of _____

The people of the State of California No.____
Concerning Notice of Termination
_____ of Conservatorship

The people of the State of California to _____
_____ :
(conservatee, conservatee's attorney, conservator, and professional person in charge of the facility in which the conservatee resides, county mental health director, and county officer providing conservatorship investigation.)

The one-year conservatorship established for _____ pursuant to Welfare and Institutions Code Section _____ on _____ will terminate on _____. If the conservator, _____, wishes to reestablish conservatorship for another year he or she must petition the court by _____. Subject to a request for a court hearing by jury

trial the judge may, on his or her own motion, accept or reject the conservator's petition.

If the conservator petitions to reestablish conservatorship the conservatee, the professional person in charge of the facility in which he or she resides, the conservatee's attorney, and, if the conservator is a private party, the county mental health director and the county officer providing conservatorship investigation shall be notified. If any of them request it, there shall be a court hearing or a jury trial, whichever is requested, on the issue of whether the conservatee is still gravely disabled and in need of conservatorship. If the private conservator does not petition for reappointment, the county officer providing conservatorship investigation may recommend another conservator. Such a petition shall be considered a petition for reappointment as conservator.

Clerk of the Superior Court
by _____
Deputy

(b) Subject to a request for a court hearing or jury trial, the judge may, on his or her own motion, accept or reject the conservator's petition.

If the conservator does not petition to reestablish conservatorship at or before the termination of the one-year period, the court shall issue a decree terminating conservatorship. The decree shall be sent to the conservator and his or her conservatee by first-class mail and shall be accompanied by a statement of California law as set forth in Section 5368.

SEC. 6. 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 1240

An act relating to international trade, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1985 Filed with Secretary of State September 30, 1985]

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

SECTION 1. The California State World Trade Commission shall review, analyze, and make recommendations regarding California statutes, rules, and regulations which have been identified as significant trade barriers for the state's agricultural commodity

exporters. The commission also shall catalogue significant agricultural trade barriers imposed by nations of the Pacific Rim. The identification of the areas for review shall come from the commission's Advisory Council's Subcommittee on Agricultural Trade, the Chairperson of the Assembly Committee on Agriculture, and the Chairperson of the Senate Committee on Agriculture and Water Resources.

The commission may contract for this study. No later than June 30, 1986, the commission shall report all findings and recommendations made pursuant to this review to the Governor, the Lieutenant Governor, the Secretary of State, the Senate Rules Committee, and the Speaker of the Assembly.

SEC. 2. The sum of fifty thousand dollars ($50,000) is hereby appropriated from the General Fund to the California State Word Trade Commission Fund for 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 to assist California's agricultural community by expanding export markets and improving economic opportunities as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 1241

An act to amend Section 830.3 of the Penal Code, relating to peace officers, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1985 Filed with Secretary of State September 30, 1985]

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

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

830.3. The following persons are peace officers whose authority extends to any place in the state for the purpose of performing their primary duty or when making an arrest pursuant to Section 836 of the Penal Code as to any public offense with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of that offense, or pursuant to Section 8597 or 8598 of the Government Code. Such peace officers may carry firearms only if authorized and under such terms and conditions as are specified by their employing agencies:

(a) Persons employed by the Department of Alcoholic Beverage Control for the enforcement of Division 9 (commencing with Section 23000) of the Business and Professions Code and designated by the Director of Alcoholic Beverage Control, provided that the

primary duty of any such peace officer shall be the enforcement of the laws relating to alcoholic beverages, as that duty is set forth in Section 25755 of the Business and Professions Code.

(b) Persons employed by the Division of Investigation of the Department of Consumer Affairs and investigators of the Board of Medical Quality Assurance and the Board of Dental Examiners, who are designated by the Director of Consumer Affairs, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 160 of the Business and Professions Code.

(c) Voluntary fire wardens as are designated by the Director of Forestry pursuant to Section 4156 of the Public Resources Code, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 4156 of that code.

(d) Employees of the Department of Motor Vehicles designated in Section 1655 of the Vehicle Code, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 1655 of that code.

(e) Investigators of the California Horse Racing Board designated by the board, provided that the primary duty of any such peace officer shall be the enforcement of Chapter 4 (commencing with Section 19400) of Division 8 of the Business and Professions Code and Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of the Penal Code.

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

(g) Inspectors of the food and drug section as are designated by the chief pursuant to subdivision (a) of Section 216 of the Health and Safety Code, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 216 of that code.

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

(i) All investigators of the State Departments of Health Services, Social Services, Mental Health, Developmental Services, Alcohol and Drug Programs and the Office of Statewide Health Planning and Development, and the Public Employees' Retirement System, provided that the primary duty of any such peace officer shall be the enforcement of the law relating to the duties of his or her department, or office. Notwithstanding any other provision of law, investigators of the Public Employees' Retirement System shall not carry firearms.

(j) Marshals and police appointed by the Board of Directors of the

California Exposition and State Fair, pursuant to Section 3332 of the Food and Agricultural Code, provided that the primary duty of the peace officer shall be the enforcement of the law as prescribed in that section.

(k) The Chief of the Bureau of Fraudulent Claims of the Department of Insurance and such investigators as designated by him, provided that the primary duty of such investigators shall be enforcement of Section 556 of the Insurance Code.

(*l*) Employees of the Department of Housing and Community Development designated under Section 18023 of the Health and Safety Code, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 18023 of that code.

(m) Investigators of the office of the Controller, provided that the primary duty of any such investigator shall be the enforcement of the law relating to the duties of that office. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(n) Investigators of the Department of Corporations designated by the Commissioner of Corporations, provided that the primary duty of these investigators shall be enforcement of the provisions of law administered by the Department of Corporations. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(o) Persons employed by the Contractors' State License Board designated by the Director of Consumer Affairs pursuant to Section 7011.5 of the Business and Professions Code, provided that the primary duty of these persons shall be the enforcement of the law as that duty is set forth in Section 7011.5, and in Chapter 9 (commencing with Section 7000) of Division 3, of that code. The Director of Consumer Affairs may designate as peace officers not more than three persons who shall at the time of their designation be assigned to the special investigations unit of the board. Notwithstanding any other provision of law, the persons designated pursuant to this subdivision shall not carry firearms.

(p) The chief and coordinators of the Law Enforcement Division of the Office of Emergency Services.

(q) Investigators of the office of the Secretary of State, designated by the Secretary of State, provided that the primary duty of any such peace officer shall be the enforcement of the law as prescribed in Chapter 3 (commencing with Section 8200) of Division 1 of Title 2 of the Government Code. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(r) The Deputy Director for Security, as designated by Section 8880.38 of the Government Code, and all lottery security personnel assigned to the California State Lottery and designated by the director, provided that the primary duty of any of those peace officers shall be the enforcement of the laws related to assuring the

integrity, honesty, and fairness of the operation and administration of the California State Lottery, and further provided that notwithstanding Sections 20017.98 and 20017.99 of the Government Code, these peace officers shall be deemed state miscellaneous members within the meaning of Section 21251.13 of the Government Code for purposes of retirement 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 effectively provide for enforcement of certain provisions of state law relating to the California State Lottery, at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1242

An act to add Sections 18711 and 18742.7 to the Business and Professions Code, relating to boxing.

[Approved by Governor September 29, 1985 Filed with Secretary of State September 30, 1985]

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

SECTION 1. Section 18711 is added to the Business and Professions Code, to read:

18711. (a) On and after July 1, 1986, the commission shall require, as a condition of licensure and as a part of the application process, each applicant for a license as a professional boxer or for the renewal of a license if the boxer has boxed within the preceding year, in addition to any other medical examinations, to be examined by a licensed physician and surgeon who specializes in neurology or neurosurgery. The physician may recommend any additional tests he or she deems necessary. On the basis of that examination and any additional tests that are conducted, the physician may recommend to the commission whether the applicant may be permitted to be licensed in California or not. The executive officer shall review these recommendations and report any denials of licensure. If, as a result of these recommendations, the executive officer refuses to grant the applicant a license, the applicant shall not box in California until the denial has been overruled by the commission as provided in this chapter.

(b) In the event that an applicant for licensure as a professional boxer undergoes a neurological examination for purposes of licensure within the 120 day period immediately preceding the normal expiration of that license the applicant shall not be required to undergo an additional neurological examination within the

following calendar year unless the commission, for cause, orders that the examination be taken. The commission shall notify all commission approved physicians and referees that the commission has the authority to order any professional boxer to undergo a neurological examination.

(c) The cost of the examinations required by this section shall be paid from assessments on promoters of professional boxing matches in California. The rate of assessment shall be set by the commission, without the requirement of adoption of regulations, and shall cover all costs associated with the requirements of this section. This assessment shall be imposed on all professional boxing matches which occur on and after January 1, 1986. All moneys received by the commission pursuant to this section shall be deposited in and credited to the Boxer's Neurological Examination Account which is hereby created in the General Fund. Moneys in the Boxer's Neurological Examination Account shall be available for encumbrance upon appropriation by the Legislature for the purposes of this section.

SEC. 2. Section 18742.7 is added to the Business and Professions Code, to read:

18742.7. (a) On and after July 1, 1986, the commission shall require, as a condition of licensure and as a part of the application process, each applicant for a license as a professional boxer or for the renewal of a license if the boxer has boxed within the preceding year, in addition to any other medical examinations, to be examined by a licensed physician and surgeon who specializes in neurology or neurosurgery. The physician may recommend any additional tests he or she deems necessary. On the basis of that examination and any additional tests that are conducted, the physician may recommend to the commission whether the applicant may be permitted to be licensed in California or not. The executive officer shall review these recommendations and report any denials of licensure. If, as a result of these recommendations, the executive officer refuses to grant the applicant a license, the applicant shall not box in California until the denial has been overruled by the commission as provided in this chapter.

(b) In the event that an applicant for licensure as a professional boxer undergoes a neurological medical examination for purposes of licensure within the 120 day period immediately preceding the normal expiration of that license the applicant shall not be required to undergo an additional neurological examination within the following calendar year unless the commission, for cause, orders that the examination be taken. The commission shall notify all commission approved physicians and referees that the commission has the authority to order any professional boxer to undergo a neurological examination.

(c) The cost of the examinations required by this section shall be paid from assessments on promoters of professional boxing matches in California. The rate of assessment shall be set by the commission,

without the requirement of formal regulations, and shall cover all costs associated with the requirements of this section. This assessment shall be imposed on all professional boxing matches which occur on and after January 1, 1986. All moneys received by the commission pursuant to this section shall be deposited in and credited to the Boxer's Neurological Examination Account which is hereby created in the General Fund. Moneys in the Boxer's Neurological Examination Account shall be available for encumbrance upon appropriation by the Legislature for the purposes of this section.

SEC. 3. Section 1 of this bill, which adds Section 18711 to the Business and Professions Code, shall only become operative if SB 1324 and this bill are both chaptered, regardless of the order of chaptering, and SB 1324 repeals and adds Chapter 2 (commencing with Section 18600) of Division 8 of the Business and Professions Code, in which case Section 2 of this bill shall not become operative.

CHAPTER 1243

An act to amend and supplement the Budget Act of 1985 by amending Items 3760-101-730 and 3760-301-730 thereof, relating to public resources, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1985 Filed with Secretary of State September 30, 1985.]

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

SECTION 1. The Legislature finds and declares that the Cascade Ranch project provided for in the Budget Act of 1985 (Chapter 111 of the Statutes of 1985) and this act is a model of cooperation between county, state, and private entities to preserve coastal agriculture while, at the same time, providing needed coastal recreational opportunities.

SEC. 2. Item 3760-101-730 of the Budget Act of 1985 (Chapter 111, Statutes of 1985) is amended to read:

STATE COASTAL CONSERVANCY

3760-101-730—For local assistance, State Coastal Conservancy, payable from the State Coastal Conservancy Fund of 1984		9,000,000
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	

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 expenditures of funds for grants to public agencies and nonprofit organizations shall be exempt from State Public Works Board review.
5. The conservancy shall give high priority to funding the Aliso Greenbelt Visitor/Nature Center in Orange County.

SEC. 3. Item 3760-301-730 of the Budget Act of 1985 (Chapter 111, Statutes of 1985) is amended to read:

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
(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 6.50 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 purchase price paid for any portion of the Cascade Ranch property shall not exceed the fair market value of that portion, keeping in mind the experiences of current property owners with the agencies regulating land use, the court system and the litigious climate surrounding property transactions, and development on the San Mateo County coastside.
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 (1) 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 (1) 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 (1), 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 (1), the conservancy shall not pay more than the appraised value as approved by the state.

SEC. 4. The Department of Parks and Recreation shall make the lands comprising the Cascade Ranch project acquired with funds appropriated in category (4) of Item 3790-301-722 of the Budget Act of 1985 (Chapter 111 of the Statutes of 1985) available for public use as soon as possible after its acquisition.

SEC. 5. When the State Coastal Conservancy acquires any lands comprising the Cascade Ranch in the County of San Mateo, all of the following are applicable to those lands:

(a) All existing farm buildings shall be available for agricultural use. If existing farm buildings on the parcel are dismantled, removed, or converted to a nonagricultural use by the Department of Parks and Recreation, the department shall provide farm buildings of an equivalent functional value for agricultural use.

(b) The conservancy, in consultation with the San Mateo County Agricultural Advisory Committee, shall develop the water resources necessary to irrigate the portions of parcels A3 and A5 which are, on the effective date of this section, in agricultural production or which the conservancy and the committee determine to be practical to be devoted to agricultural production.

(c) Notwithstanding any other provision of law, upon the request of the conservancy, the Department of General Services shall sell, or initially lease, the agricultural parcels with the associated water rights specified in subdivision (b) to private parties as soon as possible, but not later than five years after the effective date of this section. With the exception of agricultural preservation easements, the state shall not retain any long-term interest in the agricultural parcels. The leases and sales shall be on terms and conditions as determined jointly by the conservancy and the Department of General Services, but those terms and conditions shall provide for the continued agricultural use of the parcels, and the state shall give the right of first refusal to existing lessees of the agricultural parcels. The state, in consultation with the committee, shall develop a plan for the sale or lease of these agricultural

parcels.

(d) Lessees and purchasers of the agricultural parcels may employ any generally accepted necessary methods of farming customarily in use in the area that are in conformity with the applicable local coastal program. However, in selling or leasing the agricultural parcels, the state may offer incentives to lessees or purchasers who agree to use alternative agricultural practices which would minimize impacts to adjacent state park system property.

SEC. 6. (a) Notwithstanding any provision of Section 6 of this act, the State Coastal Conservancy may retain or transfer to the Department of Parks and Recreation interests in parcels A3 and A5 acquired by the conservancy which are necessary for water development for, or reasonable access to, state park system property or which are appropriate for public use of historic structures.

(b) Any coastal access lands acquired by the conservancy with funds appropriated for Cascade Ranch acquisition in category (2) of Item 3760-301-730 of the Budget Act of 1985 (Chapter 111, Statutes of 1985) may be leased or sold to a private person for the operation of a public campground, if there is a competitive bid or request for proposal 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. Nothing in this act prevents the Department of Parks and Recreation from purchasing the coastal access lands from the conservancy or from any other party for operation as an element of the state park system.

SEC. 7. Notwithstanding any other provision of law, and except for acquisitions for which funds are appropriated by the Budget Act of 1985 (Chapter 111, Statutes of 1985), any acquisition of real property in the area which is east of Ano Nuevo State Reserve, west of Big Basin State Park, and south of Butano State Park, and lying between Cascade Ranch and any one of those units of the state park system, shall be from willing sellers only. No funds shall be appropriated for the acquisition by eminent domain of any property within that area, and neither the state nor any agency of the state shall bring any condemnation action with respect to real property within that area, unless the action is approved by a statute other than a budget act. This section does not apply to any acquisition by the Department of Transportation.

SEC. 8. The sum of two hundred seventy thousand dollars ($270,000) is appropriated from the Special Account for Capital Outlay in the General Fund to the Department of Forestry for acquisition of a 60-acre inholding to be added to, and managed as a part of, the Mountain Home Demonstration State Forest in the County of Tulare.

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 that public resource acquisition, development, and exchange projects provided for in this act may be commenced at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1244

An act to amend Sections 4520, 4521, 4525, and 4535 of the Welfare and Institutions Code, relating to developmental disabilities.

[Approved by Governor September 29, 1985 Filed with Secretary of State September 30, 1985]

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

SECTION 1. Section 4520 of the Welfare and Institutions Code is amended to read:

4520. The Legislature finds that services for persons with developmental disabilities constitute a major expenditure of public funds, that these programs are provided by hundreds of public and private state and local agencies, that the legal, civil, and service rights of persons with developmental disabilities are frequently denied, and that there is no effective method for planning and coordinating the state's resources to assure these rights. Therefore, a State Council on Developmental Disabilities with authority independent of any single state service agency is needed and is hereby created.

Chapter 2 (commencing with Section 4520), Chapter 3 (commencing with Section 4560), and Chapter 4 (commencing with Section 4570) are intended by the Legislature to secure full compliance with the requirements of the Developmental Disabilities Assistance and Bill of Rights Act of 1975 (Public Law 94-103), as amended and extended, which provides federal funds to assist the state in planning, coordinating, monitoring, and evaluating services for persons with developmental disabilities and in establishing a system to protect and advocate the legal and civil rights of persons with developmental disabilities.

SEC. 2. Section 4521 of the Welfare and Institutions Code is amended to read:

4521. All references to "state council" in this part shall be a reference to the State Council on Developmental Disabilities.

There shall be 17 voting members on the state council appointed by the Governor, as follows:

(a) Nine members of the council appointed by the Governor shall be persons with a developmental disability or parents, siblings, guardians or conservators of these persons who are not employees of a state, local, or private agency or facility which receives funds from the rehabilitation, comprehensive services, and developmental

disabilities legislation, as amended, or provides services to the developmentally disabled. Three of these members shall be persons with a developmental disability, and three shall be parents, siblings, guardians, or conservators of persons with mentally impairing developmental disabilities.

(b) Eight members of the council appointed by the Governor shall include:

(1) The Secretary of the Health and Welfare Agency, who shall represent the agency and the state agency that administers funds under Title XIX of the Social Security Act for people with developmental disabilities.

(2) The Director of Developmental Services.

(3) The Director of Rehabilitation.

(4) The Superintendent of Public Instruction.

(5) A representative from a nongovernmental agency or group concerned with the provision of services to persons with developmental disabilities.

(6) A representative of a higher education training facility providing training in the field of developmental services. That individual shall have expertise in the field of developmental disabilities, and shall also represent all university-affiliated facilities and satellite centers in the state established pursuant to 42 U.S.C. Sec. 6000 et seq.

(7) The Chairperson of the Organization of Area Boards.

(8) A member of the board of directors of the agency established in California to fulfill the requirements and assurance of Section 142 of the Developmental Disabilities Act of 1984 for a system to protect and advocate the rights of persons with developmental disabilities.

(d) Prior to appointing the nine members, pursuant to subdivision (a), the Governor shall receive two nominations from the Senate Rules Committee and two nominations from the Speaker of the Assembly. These nominations shall be as follows:

(1) One nomination each shall be a person with a developmental disability.

(2) One nomination each shall be a parent, sibling, guardian, or conservator of a person with a developmental disability.

(3) Of the remaining five members, appointed by the Governor, at least one shall be a person with a developmental disability; at least one shall be a person who is a parent, sibling, guardian, or conservator of a person with a developmental disability; at least one shall be a person who is an immediate relative, guardian, or conservator of a resident of a state hospital; and at least one shall be a person who is an immediate relative, guardian, or conservator of a developmentally disabled person living in the community and one person may be selected from any of the categories specified in this paragraph.

(e) Prior to appointing the nine members, pursuant to subdivision (a), the Governor shall request and consider recommendations from organizations representing or providing services, or both, to persons

who are developmentally disabled and shall take into account socioeconomic, ethnic, and geographic considerations of the state.

(f) The term of each member described in subdivision (a) shall be for three years; provided, however, of the members first appointed by the Governor, three shall hold office for three years, three shall hold office for two years, and three shall hold office for one year. In no event shall any member described in subdivision (a) or subdivision (c) serve for more than a total of six years of service. Service by any individual on any state council on developmental disabilities existing on and after March 4, 1972, including membership on the State Developmental Disabilities Planning and Advisory Council under former Section 38200 of the Health and Safety Code (Ch. 908, Stats. 1971), shall be included in determining the total length of service.

(g) Nothing in this chapter shall prevent the reappointment or replacement of any individual presently serving on the existing state council if the reappointment is in conformity with all of the criteria established in this chapter.

SEC. 3. Section 4525 of the Welfare and Institutions Code is amended to read:

4525. In order to prevent any potential conflicts of interest, members of the state council shall not be employed as providers of services to persons with a developmental disability, or be members of the governing board of any entity providing the service, when the service is funded in whole or in part with state funds. For purposes of this section "employed as providers of services to persons with a developmental disability" shall not be deemed to include a parent, relative, guardian or conservator, who receives public funds expressly for the purpose of providing direct services to his or her child, relative, ward or conservatee, respectively, who is a person with a developmental disability.

This section shall not apply to the appointments made pursuant to paragraphs (1), (2), (3), (4), and (6) of subdivision (b) of Section 4521.

SEC. 4. Section 4535 of the Welfare and Institutions Code is amended to read:

4535. The state council shall meet at least nine times each year, and, on call of its chairperson, as often as necessary to fulfill its duties. All meetings and records of the state council shall be open to the public.

The state council shall, by majority vote of the voting members, elect its own chairperson from among the nine appointed members, and shall establish such committees as it deems necessary or desirable. The chairperson shall appoint all members of committees of the state council.

The state council may appoint technical advisory consultants and may establish committees composed of professional persons serving persons with developmental disabilities as necessary for technical assistance. The state council may call upon representatives of all

agencies receiving state funds for assistance and information, and may invite persons with developmental disabilities, their parents or guardians or conservators, professionals, or members of the general public to participate on state council committees.

CHAPTER 1245

An act to amend Sections 25123.3, 25170, and 25201 of, and to add Section 25172.6 to, the Health and Safety Code, relating to hazardous waste, and making an appropriation therefor.

[Approved by Governor September 29, 1985 Filed with Secretary of State September 30, 1985]

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

SECTION 1. Section 25123.3 of the Health and Safety Code is amended to read:

25123.3. (a) "Storage facility" means a hazardous waste facility at which the hazardous waste meets any of the following requirements:

(1) The hazardous waste is contained for periods greater than 90 days at an onsite facility.

(2) The hazardous waste is contained in a tank for any period of time and the quantities of the hazardous waste exceed 5,000 gallons or 45,000 pounds, whichever is greater. For purposes of this paragraph, "tank" does not include a portable tank used for a period of not more than 14 calendar days at an onsite facility or used to accumulate hazardous waste onsite which has been generated from onsite maintenance operations which occur less frequently than annually.

(3) The hazardous waste is contained for any period of time at an offsite facility which is not a transfer facility.

(4) The hazardous waste is contained at a transfer facility for periods greater than 96 hours.

(b) The time period for calculating the 90-day period for purposes of paragraph (1) of subdivision (a) begins when the facility has accumulated 100 kilograms of hazardous waste or 1 kilogram of extremely hazardous waste, except that, if the facility generates more than 100 kilograms of hazardous waste or 1 kilogram of extremely hazardous waste during any calendar month, the time period begins when any amount of hazardous waste first begins to accumulate.

(c) For purposes of this section, "transfer facility" means any offsite facility which is related to the transportation of hazardous waste, including, but not limited to, loading docks, parking areas, storage areas, and other similar areas where shipments of hazardous waste are held during the normal course of transportation.

SEC. 2. Section 25170 of the Health and Safety Code is amended to read:

25170. The department, in performing its duties under this chapter, shall do all of the following:

(a) Coordinate research and development regarding methods of hazardous waste handling, storage, use, processing, and disposal and may conduct appropriate studies relating to hazardous wastes.

(b) Maintain a technical reference center on hazardous waste management practices, including, but not limited to, hazardous waste disposal, recycling practices, and related information for public and private use.

(c) Provide statewide planning for hazardous waste facility site identification and assessment and render technical assistance to state and local agencies in the planning and operation of hazardous waste programs.

(d) Provide for appropriate surveillance of hazardous waste processing, use, handling, storage, and disposal practices in the state.

(e) Coordinate research and study in the technical and managerial aspects of management and use of hazardous wastes, and recycling and recovery of resources from hazardous wastes.

(f) Determine existing and expected rates of production of hazardous waste.

(g) Investigate market potential and feasibility of use of hazardous wastes and recovery of resources from hazardous wastes.

(h) Promote recycling and recovery of resources from hazardous wastes.

(i) Conduct studies for the purpose of improving departmental operations.

(j) Encourage the reduction or exchange, or both, of hazardous waste, including, but not limited to, publishing and distributing both of the following:

(1) Lists of hazardous wastes for the purpose of enabling persons to match the constituents of hazardous waste streams with needs for hazardous materials resources.

(2) Directories of known and permitted commercial hazardous waste recyclers in the state.

(k) Establish and maintain an information clearinghouse, which shall consist of a record of wastes which may be recyclable. Every producer of hazardous waste shall supply the department with information for the clearinghouse. Each producer shall not be required to supply any more information than is required by the manifests provided for in Section 25160. The department shall make this information available to persons who desire to recycle the wastes. The information shall be made available in such a way that the trade secrets of the producer are protected.

(*l*) Conduct pilot projects, as appropriate, to document the technical performance of emerging technologies which offer potential for ameliorating California's hazardous waste disposal problems.

(m) Develop and implement an industry education program which shall emphasize small business education and shall include, but not be limited to, all of the following elements:

(1) Preparation of a synopsis of laws and regulations relating to hazardous waste, which the department shall publish by January 1 of each year.

(2) Publication of educational pamphlets for selected types of business explaining selected areas of the law, regulations, or programs concerning hazardous waste.

(3) Audio-visual training programs, as needed.

(4) An annual California Hazardous Waste Management Symposium.

SEC. 3. Section 25172.6 is added to the Health and Safety Code, to read:

25172.6. (a) The department shall enter into contracts or agreements with educational, professional, or trade associations, using a competitive bidding process, to establish specialized training programs with a statewide focus to instruct businesses and other entities on compliance with statutes and regulations governing the handling, disposal, transportation, and storage of hazardous waste.

(b) On or before March 31, 1986, the department shall develop procedures for the entering into of contracts and agreements pursuant to subdivision (a).

SEC. 4. Section 25201 of the Health and Safety Code is amended to read:

25201. No operator of a storage facility, treatment facility, waste transfer station, resource recovery facility, or waste disposal site shall accept, treat, store, or dispose of a hazardous waste at the facility, station, area, or site, unless the operator holds a hazardous waste facilities permit from the department to use and operate the facility, station, area, or site.

SEC. 5. The sum of one hundred fifty thousand dollars ($150,000) is hereby appropriated from the Hazardous Waste Control Account in the General Fund to the State Department of Health Services to carry out its duties pursuant to Section 25172.6 of the Health and Safety Code.

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, except that no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs which may be incurred by a local agency or school district 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. 7. 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 1246

An act to add Section 9318 to the Welfare and Institutions Code, relating to transit.

[Approved by Governor September 29, 1985 Filed with Secretary of State September 30, 1985]

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Under the existing federal Older Americans Act, as amended (42 U.S.C. Sec. 3000), federal funds are provided to the Department of Aging as agent for this state for the provision of nutrition services and supportive services to older Californians.

(b) Funded supportive services include transportation, information and referral, legal assistance, and in-home supportive services.

(c) Despite recent augmentations in the level of both congregate and home-delivered nutrition services, it has become increasingly difficult to provide these nutrition services because of the lack of adequate transportation services.

(d) Largely as a result of inadequate transportation services, many elderly people are not able to live wholesome and enjoyable lives to their fullest potential because of the lack of social supportive services, often leading to premature and unnecessary institutionalization.

Therefore, it is the intent of the Legislature that the "Social Supportive Services Transportation Act of 1985" be enacted as a means of addressing these unmet needs.

SEC. 2. Section 9318 is added to the Welfare and Institutions Code, to read:

9318. The department shall report to the Legislature by October 1, 1987, on the need for transportation services for older persons. The report shall assess the level of unmet specialized transportation needs, propose an action plan to meet the identified needs that stresses coordination or consolidation of transportation services with other social services programs, and suggest alternatives for funding the necessary level of transportation needs.

CHAPTER 1247

An act to amend Section 8880.52 of the Government Code, relating to the California State Lottery, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1985 Filed with Secretary of State September 30, 1985]

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

SECTION 1. The Legislature finds and declares that the provisions of this act further the purpose of the California State Lottery Act of 1984.

SEC. 2. Section 8880.52 of the Government Code is amended to read:

8880.52. Sales to Minors

(a) No tickets or shares in lottery games shall be sold to persons under the age of 18 years. In the case of lottery tickets or shares sold by lottery game retailers or their employees, such persons shall establish safeguards to assure that such sales are not made to persons under the age of 18 years. In the case of sales of tickets or shares sold by vending machines or other devices, the commission shall establish safeguards to help assure that such vending machines or devices are not operated by persons under the age of 18 years.

(b) All tickets or shares in lottery games shall include, and any devices which dispense tickets or shares in lottery games shall have posted in a conspicuous place thereupon, a notice which declares that state law prohibits the selling of a lottery ticket or share to, and the payment of any prize to, a person under the age of 18 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 for the changes proposed by this bill in the California State Lottery Act of 1984 to be effective upon the implementation of the California State Lottery, it is necessary that this act take effect immediately.

CHAPTER 1248

An act to amend Section 38225 of the Vehicle Code, relating to vehicles, and making an appropriation therefor.

[Approved by Governor September 29, 1985 Filed with Secretary of State September 30, 1985]

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

SECTION 1. Section 38225 of the Vehicle Code, as amended by Section 14 of Chapter 994 of the Statutes of 1982, is amended to read:

38225. (a) A service fee of nine dollars ($9) shall be paid to the department for the issuance or renewal of identification of off-highway motor vehicles subject to identification, except as expressly exempted under this division.

(b) In addition to the service fee specified in subdivision (a), a special fee of six dollars ($6) shall be paid at the time of payment of the service fee for the issuance or renewal of an identification plate or device. All fees received by the department pursuant to this subdivision, and all day use, overnight use, or annual or biennial use fees for state vehicular recreation areas received by the Department of Parks and Recreation, shall be deposited in the Off-Highway Vehicle Fund, which is hereby created. There shall be a separate reporting of special fee revenues by vehicle type, including four-wheeled vehicles, three-wheelers, motorcycles, and snowmobiles. All money in the fund is continuously appropriated for expenditure by the Department of Parks and Recreation for the purposes specified in Article 6 (commencing with Section 5090.60) of Chapter 1.25 of Division 5 of the Public Resources Code.

(c) In addition to the service fees specified in subdivision (a), a fee of one dollar ($1) shall be paid at the time of issuance or renewal of identification of off-highway motor vehicles subject to identification, except as expressly exempted under this division. The department shall deposit the fee received under this subdivision in the Motor Vehicle Account in the State Transportation Fund. The money deposited in the account pursuant to this subdivision shall be available, upon appropriation by the Legislature, for expenditure to offset the costs of maintaining the uniformed field strength of the Department of the California Highway Patrol.

(d) 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. Any unencumbered funds remaining in the Off-Highway Vehicle Fund on January 1, 1988, shall be transferred to the General Fund.

SEC. 2. Section 38225 of the Vehicle Code, as added by Section 15 of Chapter 994 of the Statutes of 1982, is amended to read:

38225. (a) A service fee of nine dollars ($9) shall be paid to the department for the issuance or renewal of identification of off-highway motor vehicles subject to identification, except as expressly exempted under this division.

(b) In addition to the service fees specified in subdivision (a), a fee of one dollar ($1) shall be paid at the time of issuance or renewal of identification of off-highway motor vehicles subject to identification, except as expressly exempted under this division. The department shall deposit the fee received under this subdivision in the Motor Vehicle Account in the State Transportation Fund.

(c) This section shall become operative on January 1, 1988.

SEC. 3. The sum of forty thousand dollars ($40,000) is hereby appropriated from the Off-Highway Vehicle Fund to the Department of Parks and Recreation for making a grant to the County of San Diego for the preparation of an environmental impact report on the proposed Otay Mesa off-highway vehicle site. The making of the grant shall be conditioned upon a positive finding in the feasibility study being conducted by the County of San Diego on the proposed Otay Mesa off-highway vehicle site.

SEC. 4. Sections 1 and 2 of this act shall become operative only if Assembly Bill No. 1201 of the 1985–86 Regular Session is enacted. If Assembly Bill 1201 is enacted, Sections 1 and 2 of this act shall become operative at the same time that Assembly Bill 1201 takes effect.

CHAPTER 1249

An act to amend Sections 314 and 583 of the Public Utilities Code, relating to the Public Utilities Commission.

[Approved by Governor September 29, 1985 Filed with Secretary of State September 30, 1985]

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

SECTION 1. Section 314 of the Public Utilities Code is amended to read:

314. (a) The commission, each commissioner, and each officer and person employed by the commission may, at any time, inspect the accounts, books, papers, and documents of any public utility. The commission, each commissioner, and any officer of the commission or any employee authorized to administer oaths may examine under oath any officer, agent, or employee of a public utility in relation to its business and affairs. Any person, other than a commissioner or an officer of the commission, demanding to make any inspection shall produce, under the hand and seal of the commission, authorization to make the inspection. A written record of the testimony or statement so given under oath shall be made and filed with the commission.

(b) Subdivision (a) also applies to inspections of the accounts, books, papers, and documents of any business which is a subsidiary or affiliate of a telephone corporation with respect to any transaction between the corporation and the subsidiary or affiliate or any matter affecting the establishment of rates for, or the ascertainment of expenses of, the corporation.

SEC. 2. Section 583 of the Public Utilities Code is amended to read:

583. No information furnished to the commission by a public

utility, or any business which is a subsidiary or affiliate of a public utility, except those matters specifically required to be open to public inspection by this part, shall be open to public inspection or made public except on order of the commission, or by the commission or a commissioner in the course of a hearing or proceeding. Any present or former officer or employee of the commission who divulges any such information 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 1250

An act to amend Section 19614.2 of, and to add Section 19576 to, the Business and Professions Code, and to amend Sections 5701 and 5703 of the Revenue and Taxation Code, relating to horseracing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1985. Filed with Secretary of State September 30, 1985]

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

SECTION 1. Section 19576 is added to the Business and Professions Code, to read:

19576. (a) No person may furnish a tape of any quarter horse race occurring in this state to any other person either within or outside of the state for any commercial purpose, including the use of the tape in any type of video game, without first securing the consent of the racing association conducting the meeting, the organization representing horsemen participating in the meeting, and the board.

(b) No person may use any tape of any quarter horse race occurring in this state for any commercial purpose without first securing the consent of the racing association holding the meeting, the organization representing horsemen participating in the meeting, and the board.

(c) Any person whose consent is required under this section may file and maintain an action in superior court to obtain an injunction against the furnishing or commercial use of a quarter horse race tape in violation of this section.

SEC. 2. 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 and Arabian 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 and Arabian 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 and Arabian 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. 3. Section 5701 of the Revenue and Taxation Code is amended to read:

5701. The Legislature finds that subjecting racehorses to the general property tax has resulted in a serious lack of uniformity as between one county and another respecting the method used in arriving at an assessed value; that this has resulted in serious inequities between the owners of racehorses depending in part on the county wherein they are assessed; that a continuation of current assessment practices will result in a substantial decrease in the breeding, boarding, and training of racehorses for racing competition in California and that current assessment practices have caused racehorse owners to remove their horses from California to other major breeding states with the result that over a period of time if these assessment practices are continued, both the breeding and racing of racehorses in California will suffer in that the quality and quantity of racehorses will be reduced and impaired; that a severe loss of employment and taxes to breeding and racing will result, attendance at race meetings will decrease, and betting will be reduced with consequent substantial loss of revenue to California. It is the intent of the Legislature, in enacting this part, to establish a more equitable method of taxing racehorses and thereby provide incentives to owners of these horses to maintain their horses within the state by providing for a uniform system of in-lieu taxation for the racehorses subject to the provisions of this part. The Legislature further finds that, because Arabian horses begin racing and breeding at least one year later than other breeds, Arabian horses should be treated equitably by allowing that breed four years before they are required to begin racing or be engaged in breeding activities.

SEC. 4. Section 5703 of the Revenue and Taxation Code is amended to read:

5703. "Racehorse" means each live horse, including a stallion, mare, gelding, ridgeling, colt, filly, or foal, that is or will be eligible to participate in or produce foals which will be eligible to participate in a horseracing contest in California wherein parimutuel racing is permitted under rules and regulations prescribed by the California Horse Racing Board. "Racehorse" does not mean or include any horse over three years old, or four years old in the case of an Arabian horse, that has not participated in a horserace contest on which parimutuel wagering is permitted or has not been used for breeding purposes in order to produce racehorses during the two previous calendar years.

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:

Persons are in possession of tapes of quarter horse races run in this state, and these persons are presently distributing the tapes in other states for profit without permission of the owners. Thus, in order to restrict this practice as quickly as possible and to make changes relating to taxation of Arabian horses as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 1251

An act to add Section 53064.5 to the Government Code, to amend Section 16469 of, and to add Sections 2714, 10016, and 12811.5 to, the Public Utilities Code, and to add Sections 22079, 31007.5, 35482, and 71618 to the Water Code, relating to public utilities.

[Approved by Governor September 29, 1985. Filed with Secretary of State September 30, 1985.]

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

SECTION 1. Section 53064.5 is added to the Government Code, to read:

53064.5. No local agency furnishing water for residential use to a tenant shall seek to recover any charges or penalties for the furnishing of water to or for the tenant's residential use from any subsequent tenant on account of nonpayment of charges by a previous tenant. The local agency may, however, require that service to subsequent tenants be furnished on the account of the landlord or property owner.

SEC. 2. Section 2714 is added to the Public Utilities Code, to read.

2714. No water corporation furnishing water for residential use to a tenant shall seek to recover any charges or penalties for the furnishing of water to or for the tenant's residential use from any subsequent tenant on account of nonpayment of charges by a previous tenant. The water corporation may, however, require that service to subsequent tenants be furnished on the account of the landlord or property owner.

SEC. 3. Section 10016 is added to the Public Utilities Code, to read:

10016. No municipal corporation owning or operating a public utility furnishing water for residential use to a tenant shall seek to recover any charges or penalties for the furnishing of water to or for the tenant's residential use from any subsequent tenant on account of nonpayment of charges by a previous tenant. The municipal corporation may, however, require that service to subsequent tenants be furnished on the account of the landlord or property owner.

SEC. 4. Section 12811.5 is added to the Public Utilities Code, to read:

12811.5. No district furnishing water for residential use to a tenant shall seek to recover any charges or penalties for the furnishing of water to or for the tenant's residential use from any subsequent tenant on account of nonpayment of charges by a previous tenant. The district may, however, require that service to subsequent tenants be furnished on the account of the landlord or property owner.

SEC. 5. Section 16469 of the Public Utilities Code is amended to read:

16469. (a) Except as provided in subdivision (b), charges unpaid at the time specified for the fixing of the rate of taxes may be added to and become part of the annual assessment levied upon the land upon which the commodity or service was used if the property is owned, controlled, or in the possession of the same person who owned, controlled, or was in possession of it during the time the service charges were incurred or if the only transfers made of the property since the date the charges were incurred have been transfers by gift, descent, bequest, or devise.

(b) No district furnishing water for residential use to a tenant shall seek to recover any charges or penalties for the furnishing of water to or for the tenant's residential use from any subsequent tenant on account of nonpayment of charges by a previous tenant. The district may, however, require that service to subsequent tenants be furnished on the account of the landlord or property owner.

SEC. 6. Section 22079 is added to the Water Code, to read:

22079. No district furnishing water for residential use to a tenant shall seek to recover any charges or penalties for the furnishing of water to or for the tenant's residential use from any subsequent tenant on account of nonpayment of charges by a previous tenant. The district may, however, require that service to subsequent tenants be furnished on the account of the landlord or property owner.

SEC. 7. Section 31007.5 is added to the Water Code, to read:

31007.5. No district furnishing water for residential use to a tenant shall seek to recover any charges or penalties for the furnishing of water to or for the tenant's residential use from any subsequent tenant on account of nonpayment of charges by a

previous tenant. The district may, however, require that service to subsequent tenants be furnished on the account of the landlord or property owner.

SEC. 8. Section 35482 is added to the Water Code, to read:

35482. No district furnishing water for residential use to a tenant shall seek to recover any charges or penalties for the furnishing of water to or for the tenant's residential use from any subsequent tenant on account of nonpayment of charges by a previous tenant. The district may, however, require that service to subsequent tenants be furnished on the account of the landlord or property owner.

SEC. 9. Section 71618 is added to the Water Code, to read:

71618. No district furnishing water for residential use to a tenant shall seek to recover any charges or penalties for the furnishing of water to or for the tenant's residential use from any subsequent tenant on account of nonpayment of charges by a previous tenant. The district may, however, require that service to subsequent tenants be furnished on the account of the landlord or property owner.

CHAPTER 1252

An act relating to pupil health.

[Approved by Governor September 29, 1985 Filed with Secretary of State September 30, 1985]

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

SECTION 1. The State Department of Education shall conduct a study and report to the Legislature its findings on the scoliosis screening program conducted pursuant to Section 49452.5 of the Education Code, with respect to each of the following:

(a) The number of children screened each year since the beginning of the program.

(b) The number of children referred each year to primary care providers since the beginning of the program.

(c) The number of children under medical care as a result of the school's referral (the number of new cases).

(d) The number of children who had been seen by a physician for scoliosis prior to the initial screening by the school.

(e) The amount of funds reimbursed to each school district since the beginning of the program, and the amount of each screening fee.

The study shall be prepared from the information on the forms issued by the Controller for reimbursement of state-mandated costs.

The study shall also make recommendations regarding proposed changes or modifications in the program, including, but not limited to, the expansion of the screening program to other grade levels, the

most appropriate grade levels in which to expand the program, and the cost-effectiveness and feasibility of changing or modifying the program.

The state department shall report its findings to the Legislature on or before September 1, 1986.

CHAPTER 1253

An act to repeal Section 28745.2 of the Public Utilities Code, relating to transit districts.

[Approved by Governor September 29, 1985. Filed with Secretary of State September 30, 1985.]

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

SECTION 1. Section 28745.2 of the Public Utilities Code is repealed.

CHAPTER 1254

An act to amend Section 4850 of, and to add and repeal Section 4850.3 of, the Labor Code, and to amend Section 20022 of, and to add and repeal Section 21293.1 of, the Government Code, relating to workers' compensation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1985 Filed with Secretary of State September 30, 1985]

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

SECTION 1. Section 20022 of the Government Code, as amended by Chapter 236 of the Statutes of 1985, 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; (13) advanced disability pension payments provided pursuant to Section 4850.3 of the Labor Code; and (14) any other payments the board may determine not to be compensation.

SEC. 2. Section 20022 of the Government Code, as amended by Chapter 236 of the Statutes of 1985, 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 4 (commencing with Section 19993) of Part 2.6 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 amount deducted from the member's salary for payment for participation in a voluntary tax-deferred retirement plan which meets the requirements of Section 401(k) of the Internal Revenue Code of the United States; (5) employer "pick up" of member contributions which meets the requirements of Section 414(h)(2) of the Internal Revenue Code of the United States; (6) any disability or workers' compensation payments to safety members in accordance with Sections 4800 and 4850 of the Labor Code; (7) 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; (8) compensation for uniforms, except as provided in Section 20022.1; (9) 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 Article 5 (commencing with Section 19878) of Chapter 2.5 of Part 2.6 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; (13) amounts not available for payment of salaries and which are applied by the employer for the purchase of a tax-deferred retirement plan which meets the requirements of Section 401(k) of the Internal Revenue Code of the United States; (14) advanced disability pension payments provided pursuant to Section 4850.3 of the Labor Code; and (15) any other payments the board may determine not to be compensation.

SEC. 3. Section 20022 of the Government Code, as amended by Chapter 236 of the Statutes of 1985, 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; (13) advanced disability pension payments provided pursuant to Section 4850.3 of the Labor Code; and (14) any other payments the board may determine not to be compensation.

(c) Notwithstanding the provisions of paragraphs (5) and (6) of subdivision (a) and paragraph (11) of subdivision (b), the Department of Personnel Administration shall determine which payments and allowances that are paid by the state employer will be considered compensation for retirement purposes for any employee who either is excluded from the definition of state employee in subdivision (c) of Section 3513, or is a supervisory employee, as defined in Section 3522.1, or is a nonelected officer or employee of the executive branch of government who is not a member of the civil service.

(d) Notwithstanding the provisions of paragraphs (5) and (6) of subdivision (a) and paragraph (11) of subdivision (b), the Trustees of the California State University shall determine which payments and allowances that are paid by the trustees will be considered compensation for retirement purposes for any managerial employee

as defined in subdivision (*l*) of Section 3562, or supervisory employee as defined in Section 3580.3.

(e) Notwithstanding any other provision of this part, if any or all special compensation, as defined in paragraph (5) of subdivision (a) and paragraph (11) of subdivision (b) has not been reported or otherwise considered compensation for retirement purposes heretofore, this omission shall not affect any retirement allowance nor shall any moneys that might have otherwise been calculated as a result of the omission be retroactively paid by any state employee.

SEC. 4. Section 20022 of the Government Code, as amended by Section 236 of the Statutes of 1985, 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 4 (commencing with Section 19993) of Part 2.6 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 amount deducted from the member's salary for payment for participation in a voluntary tax-deferred retirement plan which meets the requirements of Section 401(k) of the Internal Revenue Code of the United States; (5) employer "pick up" of member contributions which meets the requirements of Section 414(h)(2) of the Internal Revenue Code of the United States; (6) any disability or workers' compensation payments to safety members in accordance with Sections 4800 and 4850 of the Labor Code; (7) 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; (8) compensation for uniforms, except as provided in Section 20022.1; (9) 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 Article 5 (commencing with Section 19878) of Chapter 2.5 of Part 2.6 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; (13) amounts not available for payment of salaries and which are applied by the employer for the purchase of a tax-deferred retirement plan which meets the requirements of Section 401(k) of the Internal Revenue Code of the United States; and (14) advanced disability pension payments provided pursuant to Section 4850.3 of the Labor Code; and (15) any other payments the board may determine not to be compensation.

(c) Notwithstanding the provisions of paragraphs (7) and (8) of subdivision (a) and paragraph (11) of subdivision (b), the Department of Personnel Administration shall determine which payments and allowances that are paid by the state employer will be considered compensation for retirement purposes for any employee who either is excluded from the definition of state employee in subdivision (c) of Section 3513, or is a supervisory employee, as defined in Section 3522.1, or is a nonelected officer or employee of the executive branch of government who is not a member of the civil service.

(d) Notwithstanding the provisions of paragraphs (7) and (8) of subdivision (a) and paragraph (11) of subdivision (b), the Trustees of the California State University shall determine which payments and allowances that are paid by the trustees will be considered compensation for retirement purposes for any managerial employee as defined in subdivision (*l*) of Section 3562, or supervisory employee as defined in Section 3580.3.

(e) Notwithstanding any other provision of this part, if any or all special compensation, as defined in paragraph (7) of subdivision (a) and paragraph (11) of subdivision (b) has not been reported or otherwise considered compensation for retirement purposes heretofore, this omission shall not affect any retirement allowance nor shall any moneys that might have otherwise been calculated as a result of the omission be retroactively paid by any state employee.

SEC. 5. Section 21293.1 is added to the Government Code, to read:

21293.1. (a) The Public Employees' Retirement System shall deduct the amount of advanced disability pension payments made to a local safety member pursuant to Section 4850.3 of the Labor Code from the member's retroactive disability allowance, and reimburse the local agency which has made the advanced disability pension payments. If the retroactive disability allowance is not sufficient to reimburse the total advanced disability pension payments, an amount no greater than 10 percent of the member's monthly disability allowance shall be deducted and reimbursed to the local agency until the total advanced disability pension payments have been repaid. The local safety member and the Public Employees' Retirement System may agree to any other arrangement or schedule for the member to repay the advanced disability pension payments.

(b) This section 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. 6. Section 4850 of the Labor Code, as amended by Section 5 of Chapter 114 of the Statutes of 1984, is amended to read:

4850. Whenever any city policeman, harbor policeman of any harbor district, city, county, or district firefighter, sheriff or any officer or employee of a sheriff's office, any inspector, investigator, detective, or personnel with comparable title in any district attorney's office, or lifeguard employed year round on a regular, full-time basis by a county of the first class, who is a member of the Public Employees' Retirement System or subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 of the Government Code) is disabled, whether temporarily or permanently, by injury or illness arising out of and in the course of his or her duties, he or she shall become entitled, regardless of his or her period of service with the city, county, or district, to leave of absence while so disabled without loss of salary in lieu of temporary disability payments, if any, which would be payable under this chapter, for the period of the disability, but not exceeding one year, or until such earlier date as he or she is retired on permanent disability pension, and is actually receiving disability pension payments, or advanced disability pension payments pursuant to Section 4850.3 of the Labor Code. This section shall apply only to city policemen, harbor district policemen, sheriffs or any officer or employee of a sheriff's office, and any inspector, investigator, detective, or personnel with comparable title

in any district attorney's office, who are members of the Public Employees' Retirement System or subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 of the Government Code) and excludes the employees of a police department whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise, and whose functions do not clearly fall within the scope of active law enforcement service, and excludes the employees of a county sheriff's office whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise, and whose functions do not clearly come within the scope of active law enforcement service. It shall also apply to city, county, or district firefighters who are members of the Public Employees' Retirement System or subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 of the Government Code) and excludes the employees of the city fire department, county fire department, and of any fire district whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise, and whose functions do not clearly fall within the scope of active firefighting and prevention service. It shall also apply to deputy sheriffs subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 of the Government Code). It shall also apply to lifeguards employed year round on a regular, full-time basis by counties of the first class who are subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 of the Government Code). If the employer is insured, the payments which, except for the provisions of this section, the insurer would be obligated to make as disability indemnity to the injured, the insurer may pay to the insured.

This section shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1990, deletes or extends that date.

SEC. 7. Section 4850.3 is added to the Labor Code, to read:

4850.3. (a) A city, county, special district, or harbor district which is a member of the Public Employees' Retirement System or subject to the County Employees Retirement Law of 1937 may make advanced disability pension payments to any local safety officer who has qualified for benefits under Section 4850 and is approved for a disability allowance. The payments shall be no less than 50 percent of the estimated highest average annual compensation earnable by the local safety officer during the three consecutive years of employment immediately preceding the effective date of his or her disability retirement, unless the local safety officer chooses an optional settlement in the permanent disability retirement application process which would reduce the pension allowance below 50 percent. In the case where the local safety officer's choice

lowers the disability pension allowance below 50 percent of average annual compensation as calculated, the advanced pension payments shall be set at an amount equal to the disability pension allowance. If a local agency has an adopted policy of paying for any accumulated sick leave after the safety officer is eligible for a disability allowance, the advanced disability pension payments under this section can only be made when the local safety officer has exhausted all sick leave payments. Advanced disability pension payments shall not be considered a salary under this or any other provision of law. All advanced disability pension payments made by a local agency with membership in the Public Employees' Retirement System shall be reimbursed by the Public Employees' Retirement System pursuant to Section 21293.1 of the Government Code.

(b) This section 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. 8. (a) Section 2 of this bill incorporates amendments to Section 20022 of the Government Code proposed by both this bill and SB 843. 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 20022 of the Government Code, and (3) SB 1203 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 843, in which case Sections 1, 3, and 4 of this bill shall not become operative.

(b) Section 3 of this bill incorporates amendments to Section 20022 of the Government Code proposed by both this bill and SB 1203. 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 20022 of the Government Code, (3) SB 843 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 1203 in which case Sections 1, 2, and 4 of this bill shall not become operative.

(c) Section 4 of this bill incorporates amendments to Section 20022 of the Government Code proposed by this bill, SB 843, and SB 1203. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1986, (2) all three bills amend Section 20022 of the Government Code, and (3) this bill is enacted after SB 843 and SB 1203, in which case Sections 1, 2, and 3 of this bill shall not become operative.

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:

Without statutory authorization, public safety member retirement systems cannot pay estimated benefits between termination of temporary disability and date of retirement for industrial disability. In order to provide for payment of estimated benefits as soon as possible in order to expedite the retirement process and reduce public entity expenses arising from the present delay, it is necessary

for this act to take effect immediately.

CHAPTER 1255

An act to amend Sections 19612, 19612.1, and 19612.2 of, and to add Section 19549.10 to, the Business and Professions Code, relating to horseracing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1985. Filed with Secretary of State September 30, 1985]

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

SECTION 1. Section 19549.10 is added to the Business and Professions Code, to read:

19549.10. Notwithstanding Section 19414.5, the board may allocate racing weeks of four racing days to an association conducting quarter horse racing in the northern zone if the association and the organization representing the horsemen agree to the allocation.

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 19612 of the Business and Professions Code is amended to read:

19612. (a) Except as otherwise provided, every association which conducts a harness or quarter horse race meeting shall pay a daily license fee at the following rates based upon its daily conventional and exotic parimutuel handle:

Daily Handle	License Fee Rate
$550,000 or less	2.5 percent of handle
$550,001 to $750,000	$13,750 plus 5.5 percent of the handle in excess of $550,001
$750,001 and more	$24,750 plus 4.7 percent of the handle in excess of $750,001

In addition, every association subject to this subdivision shall pay an additional license fee at the rate of 0.75 percent of its daily exotic parimutuel handle. Except as provided in Section 19610.5, no such association shall pay a license fee in excess of 3.8 percent of the daily conventional parimutuel handle and 4.55 percent of the daily exotic parimutuel handle.

(b) With respect to quarter horse meetings, all funds remaining from the deductions provided in Sections 19610, 19491, and 19491.5, after distribution of the applicable license fee, shall be distributed 55 percent as commissions and 45 percent as purses. With respect to harness meetings, except for meetings conducted pursuant to Sec-

tion 19549.2, the funds remaining from deductions provided in Section 19610, after distribution of the applicable license fee, shall be distributed 59.5 percent as commissions and 40.5 percent as purses. For meetings conducted pursuant to Section 19549.2, the funds remaining from deductions provided in Section 19610, after distribution of the applicable license fee, shall be distributed 50 percent as commissions and 50 percent as purses.

(c) Every harness association which conducted its racing meeting in a single continuous period prior to January 1, 1979, or any transferee or successor or subsequent transferee or successor of the business or assets of the association, and thereafter conducts a split racing meeting, shall pay a daily license fee based upon its daily conventional and exotic parimutuel handle in accordance with the following schedule:

Daily Handle	License Fee Rate
$1,000,000 or less.....	1.5 percent of handle
$1,000,001 and more	$15,000 plus 10.7 percent of the handle in excess of $1,000,001

In addition, every such association shall pay an additional license fee at the rate of 0.75 percent of its daily exotic parimutuel handle. Except as provided in Section 19610.5, no such association shall pay a license fee in excess of 3.04 percent of its daily conventional parimutuel handle and 3.79 percent of its daily exotic parimutuel handle.

(d) Every quarter horse association which conducted its racing meeting in the northern zone prior to January 1, 1979, shall pay a daily license fee based upon its daily conventional and exotic parimutuel handle in accordance with the following schedule:

Daily Handle	License Fee Rate
$550,000 or less	1.5 percent of handle
$550,001 to $750,000....	$8,250 plus 2.75 percent of the handle in excess of $550,001
$750,001 and more	$13,750 plus 4.7 percent of the handle in excess of $750,001

In addition, every such association shall pay an additional license fee at the rate of 0.75 percent of its daily exotic parimutuel handle. Except as provided in Section 19610.5, no such association shall pay a license fee in excess of 3.8 percent of the daily conventional parimutuel handle and 4.55 percent of its daily exotic parimutuel handle.

(e) Every association which conducted a quarter horse racing meeting in the southern zone during the daytime prior to January 1, 1979, and thereafter conducts such a meeting at night, shall be entitled to the following license fee adjustment:

For each 1 percent that the association's average daily handle in the 1981 year, during the period from the commencement of the meeting to December 25, falls below its 1980 average daily handle during the same period, the amount of the applicable license fee as

set forth in subdivision (a) shall be reduced by 2 percent.

(f) Any association qualified to operate its meetings pursuant to Section 19612.6 shall be entitled to continue to distribute license fees, commissions, and purses as provided by that section.

(g) Notwithstanding subdivision (b), for every association which conducts a quarter horse meeting in the northern zone pursuant to subdivision (d), the amount remaining after deduction of the state license fee shall be distributed between commissions and purses as agreed to by the association conducting the meeting and the organization representing the horsemen participating at the meeting. Every association conducting a quarter horse meeting pursuant to subdivision (d) may deduct an additional amount up to 1 percent of its conventional and exotic parimutuel pools to be distributed as commissions. The association may also deduct an additional 1 percent from the exotic parimutuel pools to be distributed as commissions and purses as agreed to by the association conducting the meeting and the organization representing the horsemen participating at the meeting.

SEC. 3. Section 19612.1 of the Business and Professions Code is amended to read:

19612.1. (a) In addition to the amounts otherwise deducted pursuant to this chapter, every association with an average daily handle of more than seven hundred fifty thousand dollars ($750,000) which conducts a harness, quarter, or Appaloosa horse meeting 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 following percentage ratio: to the association as additional commission, 59.5 percent; to the horsemen as additional purses, 40.5 percent.

(b) 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 second 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 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. Except for fair meetings, the maximum award made to an owner in any one race shall not exceed 15 percent of the total awards fund.

The board shall designate the officially recognized organizations representing quarter horse horsemen to administer this subdivision and to distribute premiums. The organizations may, with the approval of the board, make a deduction for expenses not to exceed 5 percent of the total awards fund.

(c) 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 owners' 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. Except for fair meetings, the maximum award made to an owner in any one race shall not exceed 15 percent of the total awards fund. 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.

(d) 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.

(e) In addition to the amounts otherwise deducted pursuant to this section, every harness racing association shall deduct an additional 2 percent of its exotic parimutuel pools to be distributed equally as commissions and purses.

SEC. 4. Section 19612.2 of the Business and Professions Code is amended to read:

19612.2. (a) In addition to the amounts otherwise deducted pursuant to this chapter, every association with an average daily handle of seven hundred fifty thousand dollars ($750,000) or less, except an association subject to Section 19614.2, which conducts a harness, quarter, or Appaloosa horse meeting may deduct from the total amount handled in its daily exotic parimutuel pool up to 3 percent thereof to be distributed as additional commissions and purses as follows:

(1) For quarter horse meetings conducted other than pursuant to Section 19612.6 and for Appaloosa horse meetings, as agreed to by the association conducting the meeting and the organization representing the horsemen participating at the meeting.

(2) For harness and quarter horse meetings conducted pursuant to Section 19612.6, 50 percent as commissions and 50 percent as purses.

(b) 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 second 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 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. Except for fair meetings, the maximum award made to an owner in any one race shall not exceed 15 percent of the total awards fund.

The board shall designate the officially recognized organizations representing quarter horse horsemen to administer this subdivision and to distribute premiums. The organizations may, with the approval of the board, make a deduction for expenses not to exceed 5 percent of the total awards fund.

(c) 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 owners' 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. Except for fair meetings, the maximum award made to an owner in any one race shall not exceed 15 percent of the total awards fund. 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.

(d) 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) and its distribution between commissions and purses. Except with the consent of the board, the amount of the deduction and its distribution shall not be changed during the course of the meeting.

(e) In addition to any deductions pursuant to this section, every harness racing association shall also deduct an additional 2 percent of its daily exotic parimutuel pool to be distributed equally as commissions and purses.

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 assure the continued operation of small harness, quarter horse, and fair racing meetings, it is necessary that this act take effect immediately.

CHAPTER 1256

An act to add Section 23206.5 to the Vehicle Code, relating to driving offenses, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1985 Filed with Secretary of State September 30, 1985]

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

SECTION 1. Section 23206.5 is added to the Vehicle Code, to read:

23206.5. In addition to any other provision of this code, if any person is convicted of a violation of Section 23152 or 23153, the court shall consider a concentration of alcohol in the person's blood of 0.20 percent or more, by weight, or the refusal of the person to take a chemical test as a special factor which may justify enhancing the penalties in sentencing, in determining whether to grant probation, and, if probation is granted, in determining additional or enhanced terms and conditions of probation.

SEC. 2. The Department of Motor Vehicles shall compile statistics on the reported disposition of cases in which the reported concentration of alcohol in the blood of a driver is 0.20 percent or more by weight and shall provide the Legislature an interim report on the results of the compilation on December 31, 1985, or within six months after the effective date of this act, whichever is later, and provide the Legislature a final report on the results of the compilation on June 30, 1986, or within 12 months after the effective date of this act, whichever is later.

The reports shall contain, to the extent practicable, a comparison of dispositions during the year prior to the effective date of this act with dispositions after that date. The reports shall also distinguish between dispositions of cases involving:

(a) Blood-alcohol concentrations below 0.20 percent with those above that level.

(b) First and second offenders.

(c) Persons who drive without a valid license and those who drive with a valid license.

This section shall become inoperative 12 months after the effective date of this act and, as of January 1, 1987, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1987, deletes or extends the dates on which it becomes inoperative and 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 for the requirements of this act, which require the court

to consider greater alcohol consumption before driving as a more serious crime, to become effective as soon as possible, and to permit the Department of Motor Vehicles to complete the statistical study required by this act in the time required, it is necessary that this act take effect immediately.

CHAPTER 1257

An act to amend Sections 243.4, 987.9, and 1000.36 of the Penal Code, relating to crimes.

[Approved by Governor September 29, 1985 Filed with Secretary of State September 30, 1985]

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

SECTION 1. Section 243.4 of the Penal Code is amended to read:

243.4. (a) Any person who touches an intimate part of another person while that person is unlawfully restrained by the accused or an accomplice, and if the touching is against the will of the person touched and is for the purpose of sexual arousal, gratification, or abuse, is guilty of sexual battery. Such an act is punishable by either imprisonment in the county jail for not more than one year or in the state prison for two, three, or four years.

(b) Any person who touches an intimate part of another person who is institutionalized for medical treatment and who is seriously disabled or medically incapacitated, if the touching is against the will of the person touched, and if the touching is for the purpose of sexual arousal, gratification, or abuse, is guilty of sexual battery. Such an act is punishable by either imprisonment in the county jail for not more than one year or in the state prison for two, three, or four years.

(c) As used in this section, "intimate part" means the sexual organ, anus, groin, or buttocks of any person, and the breast of a female. Sexual battery does not include the crime of rape as defined in Sections 261 and 289. As used in this section, "touches" means physical contact with the skin of another person whether accomplished directly or through the clothing of the person committing the offense.

As used in this section, "seriously disabled" means a person with severe physical or sensory disabilities.

As used in this section, "medically incapacitated" means a person who is incapacitated as a result of prescribed sedatives, anesthesia, or other medication.

As used in this section, "institutionalized" means a person who is located voluntarily or involuntarily in a hospital, medical treatment facility, nursing home, acute care facility, or mental hospital.

SEC. 1.1. Section 243.4 of the Penal Code is amended to read:

243.4. (a) Any person who touches an intimate part of another

person while that person is unlawfully restrained by the accused or an accomplice, and if the touching is against the will of the person touched and is for the purpose of sexual arousal, gratification, or abuse, is guilty of sexual battery. Such an act is punishable by either imprisonment in the county jail for not more than one year or in the state prison for two, three, or four years.

(b) Any person who touches an intimate part of another person who is institutionalized for medical treatment and who is seriously disabled or medically incapacitated, if the touching is against the will of the person touched, and if the touching is for the purpose of sexual arousal, gratification, or abuse, is guilty of sexual battery. Such an act is punishable by either imprisonment in the county jail for not more than one year or in the state prison for two, three, or four years.

(c) Any person who, for the purpose of sexual arousal, gratification, or abuse, causes another, against that person's will while that person is either unlawfully restrained by the accused or an accomplice, or is institutionalized for medical treatment and is seriously disabled or medically incapacitated, to masturbate or touch an intimate part of either of those persons or a third person, is guilty of sexual battery. Such an act is punishable by imprisonment in the county jail for not more than one year or in the state prison for two, three, or four years.

(d) As used in this section, "intimate part" means the sexual organ, anus, groin, or buttocks of any person, and the breast of a female. Sexual battery does not include the crime of rape as defined in Sections 261 and 289. As used in this section, "touches" means physical contact with the skin of another person whether accomplished directly or through the clothing of the person committing the offense.

As used in this section, "seriously disabled" means a person with severe physical or sensory disabilities.

As used in this section, "medically incapacitated" means a person who is incapacitated as a result of prescribed sedatives, anesthesia, or other medication.

As used in this section, "institutionalized" means a person who is located voluntarily or involuntarily in a hospital, medical treatment facility, nursing home, acute care facility, or mental hospital.

(e) This section shall not be construed to limit or prevent prosecution under any other law which also proscribes a course of conduct that also is proscribed by this section.

SEC. 2. Section 987.9 of the Penal Code is amended to read:

987.9. In the trial of a capital case the indigent defendant, through the defendant's counsel, may request the court for funds for the specific payment of investigators, experts, and others for the preparation or presentation of the defense. The application for funds shall be by affidavit and shall specify that the funds are reasonably necessary for the preparation or presentation of the defense. The fact that an application has been made shall be confidential and the contents of the application shall be confidential. Upon receipt of an

application, a judge of the court, other than the trial judge presiding over the capital case in question, shall rule on the reasonableness of the request and shall disburse an appropriate amount of money to defendant's attorney. The ruling on the reasonableness of the request shall be made at an in camera hearing. In making the ruling, the court shall be guided by the need to provide a complete and full defense for the defendant.

The Controller shall not reimburse any county for costs that exceed Board of Control standards for travel and per diem expenses. The Controller may reimburse extraordinary costs in unusual cases if the county provides sufficient documentation of the need for such expenditures.

At the termination of the proceedings, the attorney shall furnish to the court a complete accounting of all moneys received and disbursed pursuant to this section.

The Controller shall adopt regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, controlling reimbursements under this section. The regulations shall consider compensation for investigators, expert witnesses, and other expenses that may or may not be reimbursable pursuant to this section. Notwithstanding the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the Controller shall follow any regulations adopted until final approval by the Office of Administrative Law.

SEC. 3. Section 1000.36 of the Penal Code is amended to read:

1000.36. To the extent that funds are appropriated for that purpose, the Office of Criminal Justice Planning shall award project funds to three counties which meet the criteria set forth in Section 1000.30. 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. 4. Section 1.1 of this bill incorporates amendments to Section 243.4 of the Penal Code proposed by both this bill and AB 224. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 243.4 of the Penal Code, and (3) this bill is enacted after AB 224, in which case Section 1 of this bill shall not become operative.

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 1258

An act to add Article 6.5 (commencing with Section 25369) to Chapter 6.8 of Division 20 of the Health and Safety Code, relating to hazardous substances, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1985 Filed with Secretary of State September 30, 1985.]

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

SECTION 1. Article 6.5 (commencing with Section 25369) is added to Chapter 6.8 of Division 20 of the Health and Safety Code, to read:

Article 6.5. Abandoned Site Program

25369. The department shall establish an abandoned site program to survey counties where abandoned site surveys have not been completed. As part of the program, the department shall do all of the following:

(a) Develop protocols and procedures for conducting an abandoned site survey of rural unsurveyed counties. These protocols shall address all types of sites likely to be found in these counties, including, but not limited to, crop-duster airstrips, abandoned mining operations, pesticide formulators and manufacturers, abandoned wells, oil exploration and extraction, wood treatment plants, land disposal sites, and scrap metal operations.

(b) Notify the California regional water quality control boards, the Department of Fish and Game, local health officers, county directors of environmental health, county agricultural commissioners, and state and federal land management agencies of the abandoned site program. Notifications shall consist of the following:

(1) Explanation of the abandoned site program.

(2) Description of the California Superfund Program, including the availability of state funds for cleaning up abandoned hazardous waste sites, and that discovery of a site does not impose liability for cleanup.

(3) Provide a copy of the program's protocols and procedures outlining sites the state is attempting to identify.

(4) Request that, as part of each respective agency's duties, it report to the state abandoned site program any suspected abandoned waste site.

(5) Request that each respective agency notify the department by February 15, 1986, of whether the respecitve agency will participate in the abandoned site program, and, if so, what sites, if any, it has identified.

(6) Request that each participating agency as a part of its regular activities notify the department of sites identified in writing at least quarterly.

(c) Prepare an inventory of suspected abandoned hazardous substance release sites.

(d) Contact the owners and occupants of suspected abandoned sites.

(e) Maintain individual records for each suspected abandoned site.

(f) Develop a methodology for screening sites identified.

(g) Conduct a field assessment of those sites which the screening procedures specified in subdivision (f) indicate require this assessment.

(h) Rank the assessed sites, in order of priority, as presenting a potential hazard to public health or the environment consistent with Section 25356 or regulations adopted pursuant to that section.

(i) Report to the Legislature on or before April 1, 1986, and include in each quarterly report required by the Legislature thereafter, an update on the progress of the abandoned sites survey, identifying which agencies have identified and reported sites to the department, as well as which agencies have reported that they do not intend to participate in the program.

SEC. 2. This act does not require local agencies to participate in the abandoned site program established pursuant to Section 1 and does not therefore constitute a state-mandated local 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 that the survey for abandoned hazardous waste sites in rural counties begin at the earliest possible time so that the Legislature will have the preliminary results of the initial survey by April 1, 1986, it is necessary that this act go into immediate effect.

CHAPTER 1259

An act to amend Sections 10002 and 10003 of, and to add Section 10004 to, the Public Resources Code, and to add Section 1257.5 to the Water Code, relating to water, and making an appropriation therefor.

[Approved by Governor September 30, 1985 Filed with Secretary of State September 30, 1985]

I am reducing the appropriation contained in Section 5 of Assembly Bill No 723 from $1,000,000 to $500,000 by deleting the $500,000 appropriation from the General Fund

The $500,000 appropriation remaining from the Environmental License Plate Fund plus existing resources of the Department of Fish and Game will leave sufficient resources to carry out the provisions of this bill

I have asked the Department of Fish and Game to review their 1986-87 Budget proposal to determine if any additional funds will be required at that time
With this reduction, I approve Assembly Bill No 723.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Section 10002 of the Public Resources Code is amended to read:

10002. The Director of Fish and Game shall prepare proposed streamflow requirements, which shall be specified in terms of cubic feet of water per second, for each stream or watercourse identified pursuant to Section 10001. In developing the requirements for each stream, the director shall consult with the Director of Water Resources, the Director of Boating and Waterways, the Director of Parks and Recreation and with all affected local governments. The Director of Fish and Game may also consult with any private individuals, groups, or organizations as the director deems advisable. Upon completion of the proposed streamflow requirements for any individual stream or watercourse, the Director of Fish and Game shall transmit these proposed requirements to the State Water Resources Control Board. The State Water Resources Control Board shall consider these requirements within a stream as set forth in Section 1257.5 of the Water Code. The Director of Fish and Game shall complete the preparation of proposed requirements for the initial streams not later than July 1, 1989.

The Department of Fish and Game may contract for temporary services for purposes of preparing the proposed streamflow requirements.

SEC. 2. Section 10003 of the Public Resources Code is amended to read:

10003. The Director of Fish and Game, on his or her own motion or at the request of the State Water Resources Control Board, may review any streamflow requirement and may propose revision or modification thereof. The proposed revision or modification shall be transmitted to the State Water Resources Control Board.

SEC. 3. Section 10004 is added to the Public Resources Code, to read:

10004. The Department of Fish and Game shall initiate studies to develop proposed streamflow requirements for those streams or watercourses in each fiscal year for which funds are appropriated and shall complete studies on each stream or watercourse within three years. It is the intent of the Legislature that the department develop a program that will initiate studies on at least 10 streams or watercourses in each fiscal year.

SEC. 4. Section 1257.5 is added to the Water Code, to read:

1257.5. The board, in acting on applications to appropriate water, shall consider streamflow requirements proposed for fish and wildlife purposes pursuant to Sections 10001 and 10002 of the Public Resources Code. The board may establish such streamflow

requirements as it deems necessary to protect fish and wildlife as conditions in permits and licenses in accordance with this division.

SEC. 5. There is hereby appropriated the sum of one million dollars ($1,000,000) to the Department of Fish and Game, for the 1985–86 fiscal year, for the purpose of developing proposed streamflow requirements in accordance with Sections 10001 and 10002 of the Public Resources Code, as follows:

(a) Five hundred thousand dollars ($500,000) from the General Fund.

(b) Five hundred thousand dollars ($500,000) from the Environmental License Plate Fund, notwithstanding subdivision (g) of Section 21191 of the Public Resources Code.

CHAPTER 1260

An act to amend Section 65863.7 of the Government Code, relating to mobilehomes.

[Approved by Governor September 30, 1985 Filed with Secretary of State September 30, 1985]

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

SECTION 1. Section 65863.7 of the Government Code is amended to read:

65863.7. Prior to the conversion of a mobilehome park to another use, except pursuant to the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7), or prior to closure of a mobilehome park or cessation of use of the land as a mobilehome park, the person or entity proposing the change in use shall file a report on the impact of the conversion, closure, or cessation of use upon the displaced residents of the mobilehome park to be converted or closed. In determining the impact of the conversion, closure, or cessation of use on displaced mobilehome park residents, the report shall address the availability of adequate replacement housing in mobilehome parks and relocation costs.

The person proposing the change in use shall provide a copy of the report to a resident of each mobilehome in the mobilehome park at least 15 days prior to the hearing, if any, on the impact report by the advisory agency, or if there is no advisory agency, by the legislative body.

When the impact report is filed prior to the closure or cessation of use, the person or entity proposing the change shall provide a copy of the report to a resident of each mobilehome in the mobilehome park at the same time as the notice of such change is provided to the residents pursuant to paragraph (2) of subdivision (f) of Section 798.56 of the Civil Code.

When the impact report is filed prior to the closure or cessation of

use, the person or entity filing the report or park resident may request, and shall have a right to, a hearing before the legislative body on the sufficiency of the report.

The legislative body, or its delegated advisory agency, shall review the report, prior to any change of use, and may require, as a condition of the change, the person or entity to take steps to mitigate any adverse impact of the conversion, closure, or cessation of use on the ability of displaced mobilehome park residents to find adequate housing in a mobilehome park. The steps required to be taken to mitigate shall not exceed the reasonable costs of relocation.

If the closure or cessation of use of a mobilehome park results from an adjudication of bankruptcy, the provisions of this section shall not be applicable.

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 1261

An act to add and repeal Article 1.7 (commencing with Section 26638.1) to Chapter 2 of Part 3 of Division 2 of Title 3 of the Government Code, relating to peace officers.

[Approved by Governor September 30, 1985 Filed with Secretary of State September 30, 1985]

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

SECTION 1. Article 1.7 (commencing with Section 26638.1) is added to Chapter 2 of Part 3 of Division 2 of Title 3 of the Government Code, to read:

Article 1.7. Sacramento County Sheriff-Marshal Consolidation

26638.1. This article shall apply only to a county of the eighth class. It shall be known as the Sacramento County Court Services Consolidation Act of 1985.

26638.2. Notwithstanding any other provision of law, the Board of Supervisors of the County of Sacramento may, by ordinance, abolish the office of marshal of the municipal court and consolidate the services and personnel of the Sacramento County Marshal's Department into the Sacramento County Sheriff's Department.

Upon the effective date of such a consolidation ordinance, Sections 74194 and 74195 shall cease to be operative, and Sections 26638.3 to

26638.12, inclusive, shall become operative and shall continue in full force and effect during the period of consolidation. As used in Sections 26638.3 to 26638.12, inclusive, "municipal court" means the Sacramento Municipal Court District.

This article shall be repealed by operation of law in the event the board of supervisors does not, by June 30, 1986, adopt a consolidation ordinance pursuant to this article.

26638.3. All persons who, immediately preceding the effective date of abolition of the marshal's office and department, are assigned to the marshal's department in management, administrative, supervisory, peace officer, clerical, and other positions shall, on the effective date of the abolition, be assigned to the sheriff's department in the same class, or if such classes are not within the department, a comparable class; and no probationary or permanent employee shall be laid off as a result of implementation of the abolition and consolidation. The discretion of the board of supervisors to lay off as a result of the elimination or reduction in level of any service delivered by the sheriff, whether caused by the board's decision to underfund existing staffing or otherwise, shall not be impaired.

Marshal's lieutenants shall be assigned to the class of sheriff's lieutenant, and shall not be eligible to participate in a promotional examination for the class of sheriff's captain for a period of one year following the effective date of the abolition and consolidation. Marshal's deputies performing bailiffing functions shall be assigned to bailiffing functions for the superior and municipal courts for five years following the effective date of the abolition and consolidation. No provision of this section shall be deemed to restrict the authority of the sheriff to discipline any employee in accordance with county standards, procedures and limitations otherwise applicable, and except as otherwise expressly provided herein the discretion of the sheriff to assign, promote, direct, and control employees formerly assigned to the marshal's department shall not be deemed to be in any manner restricted by virtue of the abolition or consolidation.

26638.4. Notwithstanding the provisions of Sections 23608, 23665, 26603, and 71260 to 71265, inclusive, or any other provision of law, the sheriff shall provide to the superior court within the County of Sacramento and to the Sacramento Municipal Court District all of the following:

(a) Notice and process services, including the service of summons, subpoenas, warrants, and other civil and criminal process

(b) Court security services, including prisoner transportation services, prisoner escort services, bailiff services, courthouse and other court security services, and the execution of court orders and bench warrants requiring the immediate presence in court of a defendant or witness.

26638.5. The sheriff shall provide, within the limits of the resources at his or her disposal, notice and process and court security services to the superior and municipal courts of at least as high a quality as were provided preceding the abolition and consolidation.

The sheriff shall designate a position assigned to the administration of notice and process service as a court liaison officer whose duty it shall be to advise and confer with the courts respecting the quality of notice and process services.

All notice and process and court security services provided by the sheriff shall be apportioned between the superior and municipal courts in an equitable manner.

26638.6. There is hereby created as a separate unit within the sheriff's department a court security services unit, the functions of which shall be to provide to the superior and municipal courts within Sacramento County prisoner transportation services, prisoner escort services, court control, courthouse and other court building security, bailiff services and the execution of court orders and bench warrants requiring the immediate presence in court of a defendant or witness. All sheriff's personnel responsible for the delivery of these services shall be assigned to the court security services unit. The sheriff shall provide all security services to the courts through that unit.

26638.7. The court security services unit shall be headed by a chief deputy who reports directly to the sheriff through the undersheriff, and whose administrative offices are situated at such location as the presiding judges of the superior and municipal courts may direct.

The chief deputy shall be exempt from civil service, and shall not be a member of the county's classified service. The chief deputy shall be appointed by the sheriff from among Sacramento County employees who are assigned to the sheriff's department, and who are qualified peace officers. The person appointed chief deputy shall serve in that office at the individual pleasures of the sheriff, judges of the superior court, and judges of the municipal court. The chief deputy shall be subject to release from that office at the will of either the sheriff, or the judges of either the superior or municipal courts, as reflected by a majority vote of the judges in either court. A person released from the office of chief deputy shall be returned to the highest salaried county class which that person occupied preceding his or her appointment to the office of chief deputy. The chief deputy, during the period he or she occupies that office, shall be subject to suspension or dismissal from county employment at the sole discretion of the sheriff, subject to those county standards, procedures, and limitations as are applicable to county employees within the classified service.

Notwithstanding the provisions of the preceding paragraph, the first occupant of the office of chief deputy shall be the person who occupied the office of Sacramento County Marshal immediately preceding the effective date of the abolition of that office and consolidation. The first occupant shall be subject to release from that office and suspension or dismissal from county employment in accordance with the same terms, conditions, and procedures as are prescribed above. In the event the first occupant of the office of chief deputy is released from that office, he or she shall be assigned, at the

discretion of the sheriff, to any existing vacancy in the classes of sheriff's captain, sheriff's lieutenant, sheriff's sergeant or deputy sheriff, at a salary equal to that which he or she was receiving immediately preceding the effective date of release from the chief deputy office. Upon assignment to such a class, the first occupant shall immediately acquire permanent civil service status, and shall thereafter be subject to discipline or other adverse employment action subject to the same regulations and procedures as are applicable to other classified personnel occupying the same class.

The office of chief deputy, court security services, is created as one whose principal function is to serve the superior and municipal courts, is created by the Legislature as a court position, and is assigned solely for organizational purposes to the sheriff's department in order to promote the efficient utilization of personnel resources and preserve unity of command in the delivery of peace officer services.

26638.8. The sheriff, through the chief deputy, court security services, shall prepare and present for approval by the superior and municipal courts, as expressed by a majority vote by the judges of each court, written policies prescribing procedures and methods for the adequate and prompt delivery of court security services. The policies shall contain such elements as either court may prescribe, including, but not limited to:

(a) The transportation of prisoners in a manner which assures timely production at court hearings, within the limits of personnel resources at the disposal of the chief deputy, court security services.

(b) The approval by individual superior and municipal court judges of the identity of bailiffs assigned on a regular or continuing basis to the courtrooms of those judges.

(c) The organizational plan for the court security services unit in relation to the allocation of staffing levels to various functions of the court security services unit, within the limits of personnel resources at the disposal of the chief deputy, court security services, including the regular assignment of one bailiff to each permanent sitting judge, commissioner and referee.

(d) The filling with reasonable dispatch of positions which become vacant due to employment termination, leave or incapacity; and, in the event of vacancies caused by the long-term incapacity of a sworn officer, that the sheriff make his or her best effort to assign the vacant position elsewhere within the department in a manner which makes available another sworn officer for court duties.

(e) With the foregoing exceptions, the reservation of discretion to the chief deputy, court security services, to assign, direct, and control the personnel of his or her unit.

Amendments of the policies shall be subject to advance approval by the courts in the same manner as the courts approve the original policies.

26638.9. The superior and municipal courts shall bring any complaints regarding the sheriff's performance under this article and

any written policies adopted pursuant hereto to the attention of the sheriff, and shall cooperate with the sheriff to resolve them. The courts shall also actively participate and cooperate in the preparation and presentation of all budget requests for the court security services unit. The budget for the unit shall be prescribed from year to year by the board of supervisors through adoption of the annual budget. During any budget year, the staffing for the unit may be adjusted within budgeted resources and personnel classifications only with the approval of the courts under policies adopted pursuant to subdivisions (c) and (d) of Section 26638.8.

The sheriff shall not transfer or otherwise divert from the court security services unit personnel or other resources allocated to that unit by the annual final budget approved by the board of supervisors, except on a temporary basis in the event of a sudden and unforeseen emergency requiring the immediate commitment of significant resources in relation to other functions performed by the sheriff.

That organization plan for the court security services unit and the level of staffing and hours of staffing services prescribed therein set forth in that document entitled "Sacramento County Court Security Services Unit, Organization Plan," dated June 1, 1985, on file with the clerk of the Board of Supervisors of the County of Sacramento, shall, at minimum, be maintained during the 1985–86 fiscal year from and after the effective date of the abolition and consolidation authorized by this article; and the levels of staffing and hours of staffing services shall be subject to modification, increase or decrease by the board of supervisors in future fiscal years.

26638.10. In the event that either the superior or municipal court concludes by majority vote of its members that the sheriff has substantially failed to comply with any term of this article or written policies adopted hereunder, that court may request that the board of supervisors form and fund an independent review team to review the sheriff's compliance with this article or policies and report thereon. The board shall form and fund such review. The review team shall be selected by five persons who are the presiding judges of the superior and municipal courts, county executive, sheriff and a disinterested public member selected by the board.

(a) The sheriff shall take all necessary reasonable steps to remedy any violation of this article or policies adopted hereunder found by the review team. The failure of the sheriff to take such steps and violations of this article or policies adopted hereunder shall be reviewable in an action brought by the court requesting formation of the team under Section 1085 of the Code of Civil Procedure.

(b) Any findings by the review team relating to understaffing, insufficient or inadequate facilities, insufficient or inadequate equipment or appliances, or any other matter requiring as a remedy the appropriation or expenditure of public funds by the board of supervisors shall be advisory only, and shall not be enforceable by mandate or any other judicial proceeding against the county or board of supervisors.

The provisions of this section shall not be deemed to constitute an exclusive remedy, an administrative remedy which must be exhausted or to otherwise bar any other remedy which may be available to the courts under this article or any other laws for a violation of the provisions of this article or written policies adopted hereunder.

26638.11. Neither this article nor any provision hereof, including Section 26638.10, shall be deemed in any manner to limit or otherwise impair the legal power vested by other laws, including Section 68073, in the superior and municipal courts within Sacramento County to secure proper provision of court-related services.

26638.12. This article shall become inoperative on June 30, 1992, and, as of January 1, 1993, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1993, deletes or extends those dates. Upon the repeal of this article, Sections 74194 and 74195 shall cease to be inoperative.

CHAPTER 1262

An act to amend Sections 1000.12, 13516, and 13836.2 of, and to add Sections 11166.1 and 11174.5 to, the Penal Code, relating to child abuse and neglect, and making an appropriation therefor.

[Approved by Governor September 30, 1985 Filed with Secretary of State September 30, 1985]

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

SECTION 1. Section 1000.12 of the Penal Code is amended to read:

1000.12. (a) It is the intent of the Legislature that nothing in this chapter is intended to deprive a prosecuting attorney of the ability to prosecute persons suspected of committing any crime in which a minor is a victim of an act of abuse or neglect to the fullest extent of the law, if the prosecuting attorney so chooses.

(b) In lieu of prosecuting a person suspected of committing any crime in which a minor is a victim of an act of abuse or neglect, the prosecuting attorney may refer that person to the county department in charge of public social services or the probation department for counseling or psychological treatment and such other services as the department deems necessary. The prosecuting attorney shall seek the advice of the county department in charge of public social services or the probation department in determining whether or not to make the referral.

SEC. 2. Section 11166.1 is added to the Penal Code, to read:

11166.1. (a) The Legislature intends that in each county the law enforcement agencies and the county welfare or social services

department shall develop and implement cooperative arrangements in order to coordinate existing duties in connection with the investigation of suspected child abuse cases. The local law enforcement agency having jurisdiction over a case reported under Section 11166 shall report to the county welfare department that it is investigating the case within 36 hours after starting its investigation. The county welfare department or social services department shall, in accordance with the requirements of subdivision (c) of Section 288, evaluate what action or actions would be in the best interest of the child victim. Notwithstanding any other provision of law, the county welfare department or social services department shall submit in writing its findings and the reasons therefor to the district attorney on or before the completion of the investigation. The written findings and the reasons therefor shall be delivered or made accessible to the defendant or his or her counsel in the manner specified in Sections 859 and 1430.

(b) The local law enforcement agency having jurisdiction over a case reported under Section 11166 shall report to the district office of the State Department of Social Services any case reported under this section if the case involves a facility specified in paragraph (5) or (6) of Section 1502 or in Section 1596.750 or 1596.76 of the Health and Safety Code and the licensing of the facility has not been delegated to a county agency.

SEC. 3. Section 11174.5 is added to the Penal Code, to read:

11174.5. The intent and purpose of the Legislature is to protect children from abuse. In any investigation of suspected child abuse, all persons participating in the investigation of the case shall consider the needs of the child victim and shall do whatever is necessary to prevent psychological harm to the child victim.

SEC. 4. Section 13516 of the Penal Code is amended to read:

13516. (a) The commission shall prepare guidelines establishing standard procedures which may be followed by police agencies in the investigation of sexual assault cases, and cases involving the sexual exploitation or sexual abuse of children, including, police response to, and treatment of, victims of these crimes.

(b) The course of training leading to the basic certificate issued by the commission shall, on and after July 1, 1977, include adequate instruction in the procedures described in subdivision (a). No reimbursement shall be made to local agencies based on attendance on or after that date at any such course which does not comply with the requirements of this subdivision.

(c) The commission shall prepare and implement a course for the training of specialists in the investigation of sexual assault cases, child sexual exploitation cases, and child sexual abuse cases. Officers assigned to investigation duties which include the handling of cases involving the sexual exploitation or sexual abuse of children, shall successfully complete that training within six months of the date the assignment was made.

(d) It is the intent of the Legislature in the enactment of this

section to encourage the establishment of sex crime investigation units in police agencies throughout the state, which units shall include, but not be limited to, investigating crimes involving the sexual exploitation and sexual abuse of children.

SEC. 5. Section 13516 of the Penal Code is amended to read:

13516. (a) The commission shall prepare guidelines establishing standard procedures which may be followed by police agencies in the investigation of sexual assault cases, and cases involving the sexual exploitation or sexual abuse of children, including, police response to, and treatment of, victims of these crimes.

(b) The course of training leading to the basic certificate issued by the commission shall, on and after July 1, 1977, include adequate instruction in the procedures described in subdivision (a). No reimbursement shall be made to local agencies based on attendance on or after that date at any such course which does not comply with the requirements of this subdivision.

(c) The commission shall prepare and implement a course for the training of specialists in the investigation of sexual assault cases, child sexual exploitation cases, and child sexual abuse cases. Officers assigned to investigation duties which include the handling of cases involving the sexual exploitation or sexual abuse of children, shall successfully complete that training within six months of the date the assignment was made.

(d) It is the intent of the Legislature in the enactment of this section to encourage the establishment of sex crime investigation units in police agencies throughout the state, which units shall include, but not be limited to, investigating crimes involving the sexual exploitation and sexual abuse of children.

(e) It is the further intent of the Legislature in the enactment of this section to encourage the establishment of investigation guidelines that take into consideration the sensitive nature of the sexual exploitation and sexual abuse of children with respect to both the accused and the alleged victim.

SEC. 6. Section 13836.2 of the Penal Code is amended to read:

13836.2. (a) The office shall reimburse each county for the costs of salaries and transportation to the extent necessary to permit up to 10 percent of the staff of the district attorney to complete the course of training established pursuant to this chapter. The office shall prescribe the manner in which the training shall be obtained. The training shall be offered at least twice each year in both northern and southern California.

(b) The office shall seek certification from the State Bar of the course as a course which may be taken to complete the Criminal Law Specialist Certificate.

SEC. 7. Section 5 of this bill incorporates amendments to Section 13516 of the Penal Code proposed by both this bill and AB 1988. 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 13516 of the Penal Code, and (3) this bill is enacted after AB 1988,

in which case Section 13516 of the Penal Code, as amended by AB 1988, shall remain operative only until the operative date of this bill, at which time Section 5 of this bill shall become operative, and Section 4 of this bill shall not become operative.

SEC. 8. The sum of thirty thousand dollars ($30,000) is hereby appropriated from the General Fund to the Office of Criminal Justice Planning in augmentation of the amount specified in Item 8100-001-001 of the Budget Act of 1985 for the purposes specified therein.

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.

CHAPTER 1263

An act to amend Section 14771 of the Government Code, relating to state agencies.

[Approved by Governor September 30, 1985 Filed with Secretary of State September 30, 1985]

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

SECTION 1. The Legislature finds and declares all of the following:

(a) There are between 100,000 and 150,000 government forms currently in use in California. Many of these forms are unnecessary and duplicative, as well as costly intrusions on private citizens and businesses, especially small businesses.

(b) A central index of all public-use forms in use is the necessary first step and the key to a comprehensive paperwork reduction program.

(c) Present state law, which required a central index and a complete and comprehensive inventory of public-use forms in use, by January 1, 1984, has not been complied with or implemented.

SEC. 2. It is the intent of the Legislature to do all of the following:

(a) Take steps to establish a comprehensive plan to minimize state paperwork burdens on individuals and businesses, especially small businesses.

(b) Minimize the cost to the state of collecting, maintaining, using, and disseminating information.

(c) Establish means whereby public-use forms can be standardized, consolidated, simplified, designed, and procured economically, and managed efficiently by agencies.

SEC. 3. Section 14771 of the Government Code is amended to read:

14771. (a) The director, through the forms management center, shall do all of the following:

(1) Establish a State Forms Management Program for all state agencies, and provide assistance in establishing internal forms management capabilities.

(2) Study, develop, coordinate and initiate forms of interagency and common administrative usage, and establish basic state design and specification criteria to effect the standardization of public-use forms.

(3) Provide assistance to state agencies for economical forms design and forms art work composition and establish and supervise control procedures to prevent the undue creation and reproduction of public-use forms.

(4) Provide assistance, training, and instruction in forms management techniques to state agencies, forms management representatives, and departmental forms coordinators, and provide direct administrative and forms management assistance to new state organizations as they are created.

(5) Maintain a central cross index of public-use forms to facilitate the standardization of such forms, to eliminate redundant forms, and to provide a central source of information on the usage and availability of forms.

(6) Utilize appropriate procurement techniques to take advantage of competitive bidding, consolidated orders, and contract procurement of forms, and work directly with the State Printer toward more efficient, economical and timely procurement, receipt, storage, and distribution of state forms.

(7) Coordinate the forms management program with the existing state archives and records management program to insure timely disposition of outdated forms and related records.

(8) Conduct periodic evaluations of the effectiveness of the overall forms management program and the forms management practices of the individual state agencies, and maintain records which indicate net dollar savings which have been realized through centralized forms management.

(9) Develop and promulgate rules and standards to implement the overall purposes of this section.

(10) Create and maintain by July 1, 1986, a complete and comprehensive inventory of public-use forms in current use by the state.

(11) Establish and maintain, by July 1, 1986, an index of all public-use forms in current use by the state.

(12) Assign, by January 1, 1987, a control number to all public-use forms in current use by the state.

(13) Establish a goal to reduce the existing burden of state collections of public information by 30 percent by July 1, 1987, and to reduce that burden by an additional 15 percent by July 1, 1988.

(14) Delegate implementing authority to state agencies where the delegation will result in the most timely and economical method of accomplishing the responsibilities set forth in this section.

The director, through the forms management center, may require any agency to revise any public-use form which the director determines is inefficient.

(b) Due to the need for tax forms to be available to the public on a timely basis, all tax forms, including returns, schedules, notices, and instructions prepared by the Franchise Tax Board for public use in connection with its administration of the Personal Income Tax Law, Senior Citizens Property Tax Assistance and Postponement Law, Bank and Corporation Tax Law, and the Political Reform Act of 1974 and the State Board of Equalization's administration of county assessment standards, state-assessed property, timber tax, sales and use tax, hazardous substances tax, alcoholic beverage tax, cigarette tax, motor vehicle fuel license tax, use fuel tax, energy resources surcharge, emergency telephone users surcharge, insurance tax, and universal telephone service tax shall be exempt from the provisions of subdivision (a), and, instead, each board shall do all of the following:

(1) Establish a goal to standardize, consolidate, simplify, efficiently manage, and, where possible, reduce the number of tax forms.

(2) Create and maintain, by July 1, 1986, a complete and comprehensive inventory of tax forms in current use by the board.

(3) Establish and maintain, by July 1, 1986, an index of all tax forms in current use by the board.

(4) Report to the Legislature, by January 1, 1987, on its progress to improve the effectiveness and efficiency of all tax forms.

SEC. 4. The Director of General Services shall report to the Legislature as follows:

(a) On progress in the establishment and maintenance of an index of all public-use forms currently in use in the state, as required by Section 2 of this act, on or before January 1, 1987.

(b) On progress in the assignment of control numbers to all public-use forms currently in use by the state, by July 1, 1987.

(c) On progress in the reduction of the existing burden of state collections of public information, on or before February 1, 1988. All agencies, except the Franchise Tax Board and the State Board of Equalization, shall report to the director on their progress in the reduction of their existing burden of state collections of public information no later than January 1, 1988.

SEC. 5. Existing resources of the Department of General Services, the Franchise Tax Board, the State Board of Equalization, and the departments which may be delegated authority pursuant to subdivision (14) of Section 14771 of the Government Code shall be used to implement this act.

CHAPTER 1264

An act to amend Section 11372.5 of, and to add Article 7 (commencing with Section 11390) to Chapter 6 of, Division 10 of the Health and Safety Code, relating to controlled substances.

[Approved by Governor September 30, 1985 Filed with Secretary of State September 30, 1985.]

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

SECTION 1. Section 11372.5 of the Health and Safety Code is amended to read:

11372.5. (a) Every person who is convicted of a violation of Section 11350, 11351, 11352, 11355, 11358, 11359, 11361, 11363, 11364, 11368, 11377, 11378, 11378.5, 11379, 11379.5, 11380, 11380.5, 11382, 11383, 11390, 11391, or 11550 or subdivision (a) or (c) of Section 11357, or subdivision (a) of Section 11360 shall pay a criminal laboratory analysis fee in the amount of fifty dollars ($50) for each separate offense. The court shall increase the total fine necessary to include this increment.

With respect to those offenses specified in this subdivision for which a fine is not authorized by other provisions of law, the court may, upon conviction, impose a fine in an amount not to exceed fifty dollars ($50), which shall constitute the increment prescribed by this section and which shall be in addition to any other penalty prescribed by law.

(b) The county treasurer shall maintain a criminalistics laboratories fund. The sum of fifty dollars ($50) shall be deposited into the fund for every conviction under Section 11350, 11351, 11352, 11355, 11358, 11359, 11361, 11363, 11364, 11368, 11377, 11378, 11378.5, 11379, 11379.5, 11380, 11380.5, 11382, 11383, 11390, 11391, or 11550, subdivision (a) or (c) of Section 11357, or subdivision (a) of Section 11360, in addition to fines, forfeitures, and other moneys which are transmitted by the courts to the county treasurer pursuant to Section 11502. The deposits shall be made prior to any transfer pursuant to Section 11502. The county may retain an amount of this money equal to its administrative cost incurred pursuant to this section. Moneys in the criminalistics laboratories fund shall, except as otherwise provided in this section, be used exclusively to fund (1) costs incurred by criminalistics laboratories providing microscopic and chemical analyses for controlled substances, in connection with criminal investigations conducted within both the incorporated or unincorporated portions of the county, (2) the purchase and maintenance of equipment for use by these laboratories in performing the analyses, and (3) for continuing education, training, and scientific development of forensic scientists regularly employed by these laboratories. Moneys in the criminalistics laboratory fund shall be in addition to any allocations pursuant to existing law. As

used in this section, "criminalistics laboratory" means a laboratory operated by, or under contract with, a city, county, or other public agency, including a criminalistics laboratory of the Department of Justice, (1) which has not less than one regularly employed forensic scientist engaged in the analysis of solid-dose controlled substances, and (2) which is registered as an analytical laboratory with the Drug Enforcement Administration of the United States Department of Justice for the possession of all scheduled controlled substances. In counties served by criminalistics laboratories of the Department of Justice, amounts deposited in the criminalistics laboratories fund, after deduction of appropriate and reasonable county overhead charges attributable to the collection thereof, shall be paid by the county treasurer once a month to the Controller for deposit into the State General Fund, and shall be excepted from the expenditure requirements otherwise prescribed by this subdivision.

The county treasurer shall, at the conclusion of each fiscal year, determine the amount of any funds remaining in the special fund established pursuant to this section after expenditures for that fiscal year have been made for the purposes herein specified. The county treasurer shall annually distribute those surplus funds in accordance with the allocation scheme for distribution of fines and forfeitures set forth in Section 11502.

SEC. 2. Article 7 (commencing with Section 11390) is added to Chapter 6 of Division 10 of the Health and Safety Code, to read:

Article 7. Mushrooms

11390. Except as otherwise authorized by law, every person who, with intent to produce a controlled substance specified in paragraph (18) or (19) of subdivision (d) of Section 11054, cultivates any spores or mycelium capable of producing mushrooms or other material which contains such a controlled substance shall be punished by imprisonment in the county jail for a period of not more than one year or in the state prison.

11391. Except as otherwise authorized by law, every person who transports, imports into this state, sells, furnishes, gives away, or offers to transport, import into this state, sell, furnish, or give away any spores or mycelium capable of producing mushrooms or other material which contain a controlled substance specified in paragraph (18) or (19) of subdivision (d) of Section 11054 for the purpose of facilitating a violation of Section 11390 shall be punished by imprisonment in the county jail for a period of not more than one year or in the state prison.

11392. Spores or mycelium capable of producing mushrooms or other material which contains psilocyn or psyoclyin may be lawfuly obtained and used for bona fide research, instruction, or analysis, if not in violation of federal law, and if the research, instruction, or analysis is approved by the Research Advisory Panel established pursuant to Sections 11480 and 11481.

SEC. 3. 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 the costs of the program or level of service mandated by this act requiring reimbursement, and because the only other 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 1265

An act relating to agriculture.

[Approved by Governor September 30, 1985. Filed with Secretary of State September 30, 1985]

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

SECTION 1. (a) The Legislature hereby finds and declares as follows:

(1) The Department of Food and Agriculture and the State Department of Health Services have made extraordinary efforts to protect the consuming public from the risks associated with instances occurring during the summer of 1985 of the improper application of pesticides on watermelons, resulting in the confiscation and destruction of a significant portion of the 1985 watermelon crop.

(2) Those law-abiding farmers, shippers, brokers, wholesalers, and retailers who were not involved in this pesticide misuse have nonetheless suffered economic hardships due to the confiscation and destruction of these watermelons by public officials to eliminate any possible risk to the public health and safety.

(3) There is precedent for state economic assistance for the losses suffered by innocent persons during the recent epidemics of Newcastle's disease, avian influenza, brucellosis, and the Mediterranean Fruit Fly.

(b) It is, therefore, the intent of the Legislature, in enacting this act, to provide certain relief from the economic impacts of this recent watermelon crop emergency by facilitating settlement of all legitimate claims arising out of this situation.

SEC. 2. This act is applicable to claims relating to or resulting from the confiscation and destruction of watermelons during the summer of 1985 due to the improper use of pesticides arising both before and after the effective date of this act, together with administrative expenses of the State Board of Control related to the processing of those claims.

SEC. 3. All claims under this act shall be filed with the State

Board of Control on or before December 1, 1985.

SEC. 4. The State Board of Control shall consider and approve or reject all claims pursuant to this act, and may require the submission of sufficient evidence or documentation in support thereof as it may specify. Those claims shall include free on board price, preharvest costs, and average market value.

As used in this section, "average market value" means the average free on board market price for watermelons over the preceding five-year period computed on a county-by-county basis by the county agricultural commissioner for each county. Those claims submitted under average market value shall only be approved if the FOB price received does not cover actual documented production costs.

SEC. 5. (a) The Director of Food and Agriculture shall, on request of the State Board of Control, review and certify to the board all claims found and determined to be valid and proper for reimbursement of losses suffered by farmers, shippers, brokers, wholesalers, and retailers by reason of confiscation of watermelons during the summer of 1985 because of the danger of pesticide misuse.

(b) The director shall disapprove and refuse to certify to the board the claim of any person whom the director finds and determines improperly applied, or improperly permitted to be applied, any pesticide to the watermelons which are the subject of the claim.

SEC. 6. (a) The State Board of Control shall periodically report to the Assembly Committee on Ways and Means and to the Senate Committee on Appropriations on the number, types, and amounts of claims approved under this act.

(b) The State Board of Control shall, every 60 days, make a report to the Chairperson of the Joint Legislative Budget Committee. The report shall contain the total number of claims filed to date, the total number of claims rejected and allowed, and the total dollar amount of claims allowed.

CHAPTER 1266

An act to add Section 667.5 to, and to add Article 6 (commencing with Section 13000) to Chapter 2 of Division 3 of, the Insurance Code, relating to insurance.

[Approved by Governor September 30, 1985 Filed with Secretary of State September 30, 1985.]

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

SECTION 1. Section 667.5 is added to the Insurance Code, to read:

667.5. Unless a policy specifically provides otherwise, the cancellation of a policy, or any change in the policy, executed by an

insurer, at the request of the named insured designated on the declarations page of the policy, shall be binding upon any other insured or named insured.

Notice of cancellation or an endorsement evidencing the named insured's request shall be mailed or delivered to the address stated in the policy to all individuals or to all entities designated as named insureds on the declarations page of the policy.

SEC. 2. Article 6 (commencing with Section 13000) is added to Chapter 2 of Division 3 of the Insurance Code, to read:

Article 6. Insurance Fraud Reporting

13000. (a) Upon written request to an insurer by officers designated in subdivisions (a) and (b) of Section 830.1 and subdivision (c) of Section 830.2 of the Penal Code, an insurer, or agent authorized by that insurer to act on behalf of the insurer, shall release to the requesting authorized governmental agency any or all relevant information deemed important to the authorized governmental agency which the insurer may possess relating to any specific insurance fraud. Relevant information may include, but is not limited to, all of the following:

(1) Insurance policy information relevant to the insurance fraud under investigation, including, but not limited to, any application for a policy.

(2) Policy premium payment records which are available.

(3) History of previous claims made by the insured.

(4) Information relating to the investigation of the insurance fraud, including statements of any person, proof of loss, and notice of loss.

(5) Complete copies of both sides of payment drafts.

(b) The provisions of subdivision (a) shall not operate to authorize disclosure of medical information not otherwise authorized for disclosure pursuant to law.

(c) For purposes of this article, "authorized governmental agency" means those agencies employing officers designated in subdivisions (a) and (b) of Section 830.1 and subdivision (a) of Section 830.2 of the Penal Code.

13001. Any information acquired pursuant to this article shall not be a part of any public record. Except as otherwise provided by law, any authorized governmental agency, an insurer, or an agent authorized by an insurer to act on its behalf, which receives any information furnished pursuant to this article, shall not release that information to public inspection until such time as its release is required in connection with a criminal or civil proceeding.

13002. In the absence of fraud or malice, no insurer, or any employee or agent authorized by an insurer to act on behalf of the insurer, and no authorized governmental agency or its respective employees, shall be subject to any civil liability for libel, slander, or any other relevant cause of action by virtue of releasing or receiving

any information pursuant to Section 13000 or 13001. Nothing in this article is intended to, or does in any way or manner, abrogate or lessen the existing common law or statutory privileges and immunities of an insurer, or any employee or agent authorized by that insurer to act on behalf of the insurer, or of any authorized governmental agency or its respective employees.

13003. (a) For purposes of this article, "insurance fraud" does not include motor vehicle theft and motor vehicle insurance fraud reporting subject to the provisions of Chapter 5 (commencing with Section 10900) of Division 4 of the Vehicle Code.

(b) As used in this article, "authorized governmental agency" means the police department of a city, or a city and county, the sheriff's office or department of a county, the district attorney of any county, or city and county, and any other law enforcement agency of this state or any city or county, or city and county.

13004. Any or all information released or received by an authorized governmental entity pursuant to Section 13000 or 13001 shall be provided by that agency to the Bureau of Fraudulent Claims within 10 days of the agency's receipt of the information.

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 1267

An act to add Section 36512.3 to the Government Code, relating to cities.

[Approved by Governor September 30, 1985 Filed with Secretary of State September 30, 1985.]

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

SECTION 1. Section 36512.3 is added to the Government Code, to read:

36512.3. (a) Notwithstanding Section 34902 or 36512, an appointment shall not be made to fill a vacancy on a city council if the appointment would result in a majority of the members serving on the council having been appointed. The vacancy shall be filled in the manner provided by this section.

(b) The city council may call an election to fill the vacancy, to be held on the next regularly established election date not less than 90 days after the call.

(c) If the city council does not call an election pursuant to

subdivision (b), the vacancy shall be filled at the next regularly established election date.

(d) This section shall apply to any vacancy which otherwise could have been filled by an appointment made on or after January 1, 1986.

CHAPTER 1268

An act to amend Sections 1163 and 1164 of the Harbors and Navigation Code, relating to pilots.

[Approved by Governor September 30, 1985 Filed with Secretary of State September 30, 1985.]

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

SECTION 1. Section 1163 of the Harbors and Navigation Code is amended to read:

1163. (a) (1) Each retired or disabled pilot shall receive, as a monthly pension, that amount which is eighty-five dollars ($85) multiplied by the number of full years of service he performed as a pilot licensed under this division.

(2) A pilot who retires or becomes disabled shall not begin to receive his pension until the benefit year next following the date on which he retires or becomes disabled.

(3) No retired pilot shall receive benefits pursuant to the pension plan in any benefit year unless his resignation as an active pilot specifying a proposed date of retirement was submitted, in writing, to the board, prior to December if his retirement is to be effective the first day of the following January or prior to June if his retirement is to be effective the first day of the following July. His resignation shall become effective on either January 1 or July 1 as specified in the written resignation.

(4) If a retired or disabled pilot who is receiving a pension dies without a wife surviving him, his successor in interest shall receive the proceeds of the pension for the remainder of the benefit year, after which time it shall cease.

(b) (1) The widow of a deceased pilot who would be eligible for a pension pursuant to subdivision (c) of Section 1164 shall receive, as a monthly pension, one-half of the amount that her deceased husband would have received as a pension pursuant to this section had he lived.

(2) If a retired or disabled pilot receiving a pension dies, his widow shall continue to receive the full pension to which her deceased husband was entitled for the balance of the benefit year, after which she shall receive the amount specified in paragraph (1) of this subdivision.

(3) When a widow receiving a pension dies, her successor in interest shall receive the proceeds of the pension for the remainder

of the benefit year, after which time it shall cease.

(c) For the purposes of the computations described in paragraph (1) of subdivision (a), six months or more of service by a pilot shall be considered a full year.

SEC. 2. Section 1164 of the Harbors and Navigation Code is amended to read:

1164. (a) A pilot shall be eligible for the pension provided in Section 1163 if he meets all of the following requirements:

(1) Held a license as a pilot and served at least 10 years in that capacity or has attained 62 years of age, whichever occurs first.

(2) Retired after January 1, 1972.

(3) Is at least 60 years of age.

(b) A disabled pilot shall be eligible for the pension provided in Section 1163 if it has been determined by the Board of Pilot Commissioners, based upon competent medical evidence, that such pilot is unable to perform the duties of a pilot. As used in this chapter, "disabled" means a disability of permanent or extended and uncertain duration, as determined by the board, on the basis of competent medical opinion.

(c) (1) A widow of a deceased pilot shall be eligible for the pension provided in subdivision (b) of Section 1163 if her deceased pilot husband died after January 1, 1972, and if he had held a license as a pilot.

(2) In order for a widow to be eligible for any pension benefits pursuant to this chapter, she shall have been legally married to the deceased pilot for at least one year prior to his death.

(3) A widow of a deceased pilot shall neither be eligible for nor receive pension benefits pursuant to this chapter if she remarries.

CHAPTER 1269

An act to amend Section 6317 of the Labor Code, relating to occupational safety and health.

[Approved by Governor September 30, 1985 Filed with Secretary of State September 30, 1985]

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

SECTION 1. Section 6317 of the Labor Code is amended to read:

6317. If, upon inspection or investigation, the division believes that an employer has violated Section 25910 of the Health and Safety Code or any standard, rule, order, or regulation established pursuant to Chapter 6 (commencing with Section 140) of Division 1 of the Labor Code, or any standard, rule, order, or regulation established pursuant to this part, it shall with reasonable promptness issue a citation to the employer. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a

reference to the provision of the code, standard, rule, regulation, or order alleged to have been violated. In addition, the citation shall fix a reasonable time for the abatement of the alleged violation. The period specified for abatement shall not commence running until the date the citation or notice is received by certified mail and the certified mail receipt is signed, or if not signed, the date the return is made to the post office. If the division officially and directly delivers the citation or notice to the employer, the period specified for abatement shall commence running on the date of the delivery.

A "notice" in lieu of citation may be issued with respect to violations found in an inspection or investigation which meet either of the following requirements:

(1) The violations do not have a direct relationship upon the health or safety of an employee.

(2) The violations do not have an immediate relationship to the health or safety of an employee, and are of a general or regulatory nature. A notice in lieu of a citation may be issued only if the employer agrees to correct the violations within a reasonable time, as specified by the division, and agrees not to appeal the finding of the division that the violations exist. A notice issued pursuant to this paragraph shall have the same effect as a citation for purposes of establishing repeat violations or a failure to abate. Every notice shall clearly state the abatement period specified by the division, that the notice may not be appealed, and that the notice has the same effect as a citation for purposes of establishing a repeated violation or a failure to abate. The employer shall indicate agreement to the provisions and conditions of the notice by his or her signature on the notice.

Under no circumstances shall a notice be issued in lieu of a citation if the violations are serious, repeated, willful, or arise from a failure to abate.

The director shall prescribe guidelines for the issuance of these notices.

The division may impose a civil penalty against an employer as specified in Chapter 4 (commencing with Section 6423) of this part, provided, that no civil penalty shall be imposed against any employer for first-instance violations of any standard, rule, order, or regulation, (other than serious, willful, or repeated violations) resulting from the inspection of the employer's establishment or workplace, unless the establishment or workplace is cited, on the basis of the inspection, for 10 or more violations. A notice in lieu of a citation may not be issued if the number of first instance violations found in the inspection (other than serious, willful, or repeated violations) is 10 or more violations.

No citation or notice shall be issued by the division for a given violation or violations after six months have elapsed since occurrence of the violation.

The director shall prescribe procedures for the issuance of a citation or notice.

The division shall prepare and maintain records capable of supplying an inspector with previous citations and notices issued to an employer.

SEC. 2. The Division of Occupational Safety and Health shall analyze the impact of utilization of the notice in lieu of citation pursuant to paragraph (2) of Section 6317 of the Labor Code by evaluating relevant criteria, including, but not limited to, the number of inspections conducted, the number of serious citations, the number of general or regulatory violations, and the number of notices issued. The division shall report its findings to the Legislature by February 15, 1988.

CHAPTER 1270

An act to amend Section 4476 of, and to add Section 4561.7 to, the Public Resources Code, relating to forest practices, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1985 Filed with Secretary of State September 30, 1985.]

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

SECTION 1. Section 4476 of the Public Resources Code is amended to read:

4476. Any contract which is entered into pursuant to this article shall do all of the following:

(a) Vest in the director the final authority to determine the time during which wildland fuel and structural fire hazards may be burned to minimize the risk of escape of a fire set in a prescribed burning operation and to facilitate maintenance of air quality.

(b) Clearly state the obligation of each party to such contract to provide, maintain, and repair equipment and indicate the number of each type of equipment to be provided and the duration of its availability.

(c) Designate an officer of the department as the fire boss with final authority to approve and amend the plan and formula applicable to the prescribed burning operation, to determine that the site has been prepared and the crew and equipment are ready to commence the operation, and to supervise the work assignments of departmental employees and all personnel furnished by the person contracting with the department until the prescribed burning is completed and all fire is declared to be out.

(d) Specify the duties of, and the precautions taken by, the person contracting with the department and any personnel furnished by that person.

(e) Provide that any personnel furnished by a person contracting with the department to assist in any aspect of site preparation or

prescribed burning shall be an agent of that person for all purposes of worker compensation. However, any volunteer recruited or used by the department to suppress a wildland fire originating or spreading from a prescribed burning operation is an employee of the department for all purposes of worker compensation.

(f) Specify the value assigned to the materials, services, or equipment furnished by the person contracting with the department in lieu of payment of all or part of that person's share of the actual costs.

(g) Specify the total costs of the prescribed burning operation and the pro rata share thereof for each party to the contract. Any person contracting with the department shall, prior to the commencement of any work by the department, place on deposit in an interest-bearing escrow or trust account with a California-licensed financial institution an amount equal to that person's pro rata share of the costs, less the value of materials, services, or equipment specified pursuant to subdivision (e). Interest earned on the account shall accrue to the depositor and may be separately disbursed from the principal amount upon request of the depositor. Disbursement of funds on deposit in the trust or escrow account shall be authorized by the depositor within 15 days after completion, to the depositor's satisfaction, of all work specified in the contract to be done by the department.

(h) Provide that the department may, in its discretion, purchase a third party liability policy of insurance which provides coverage against loss resulting from a wildland fire sustained by any person or public agency, including the federal government. The amount of the policy, if purchased, shall be determined by the director. The policy shall name the person contracting with the department and the department as joint policy holders. The premium shall be included as a cost prorated as provided in subdivision (g). A certificate of insurance, if purchased, covering each policy shall be attached to or become a part of the contract. In this event, the department may agree to indemnify and hold harmless the person or public agency contracting with the department with respect to liability arising out of performance of the contract.

Section 4561.7 is added to the Public Resources Code, to read:

4561.7. (a) The site designated for testing purposes by subdivision (b) is exempt from any stocking requirements.

(b) Testing may be permitted only on a 35-acre area located in the Pudding Creek drainage of Mendocino County in Sections 19 and 30, T19N, R16W, M.D.B. & M.

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 testing and an exemption from stocking standards for timber operations on the area designated in Section 2 of this act, and to authorize the Department of Forestry, in its

discretion, to purchase insurance pursuant to its burning contracts as quickly as possible in view of rapidly changing circumstances, it is necessary that this act take effect immediately.

CHAPTER 1271

An act to amend Section 12981 of the Water Code, relating to water resources.

[Approved by Governor September 30, 1985 Filed with Secretary of State September 30, 1985]

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

SECTION 1. The Legislature finds and declares all of the following concerning the levees in the Sacramento-San Joaquin Delta:

(a) Some delta levees are becoming more and more unstable because (1) they were never built to proper engineering standards, (2) they are substantially undersized, (3) the underlying peat is a very poor foundation material for what are now large and heavy levees, and (4) subsidence is causing increased hydrostatic pressure against the levees.

(b) The United States Army Corps of Engineers has estimated that the probability of failure for some of the delta levees is greater than 10 failures over a 110-year period.

(c) The federal Central Valley Project and the state water project use the natural delta channels to carry water from the Sacramento River system across the delta to the export pumps in the south delta, thereby supplying about 20 percent of the water used in the state.

(d) The East Bay Municipal Utility District's water pipelines cross the delta, and the Contra Costa Water District diverts water directly from the delta.

(e) Depending on hydrologic conditions, the failure of one or more critical levees in the delta could draw salt water into the delta from the Carquinez Straits and San Francisco Bay, thereby contaminating the water in the delta.

(f) The contamination of the water in the delta could make the export water unusable for an extended period of time, with substantial economic and social effects upon the areas that are dependent on that water.

(g) In order to protect this water supply and thereby the state's economy, it is only prudent that the state have an emergency plan to respond to the failure of one or more critical levees in the delta.

SEC. 2. The Department of Water Resources shall prepare an emergency plan which will allow the federal Central Valley Project and the State Water Resources Development System to continue exporting, or quickly resume exporting, usable water from the

Sacramento-San Joaquin Delta in the event of the failure of one or more levees in the delta as the result of levee overtoppings, levee foundation failure, liquefaction of levees due to an earthquake, or other failure modes. The emergency plan shall also allow the East Bay Municipal Utility District and the Contra Costa Water District to continue delivering, or quickly resume delivering, usable water.

The emergency plan shall also include consideration of a catastrophic failure of a large number of levees that might occur with a strong earthquake on the San Andreas Fault. The emergency plan shall designate which levees are critical for the maintenance of export water quality and shall evaluate the levels of risk for failure for those critical levees. The emergency plan shall be designed to respond to short-term consequences of levee failure and shall not be designed to respond to long-term delta water transfer issues or to long-term levee reconstruction issues.

The recommended emergency plan, including alternative plans, shall be submitted to the Legislature on or before January 1, 1987, for consideration.

This section does not authorize the construction of physical works of any kind, including, but not limited to, any peripheral canal or through-delta channel plan.

SEC. 3. Section 12981 of the Water Code is amended to read:

12981. The Legislature hereby finds and declares that the delta is endowed with many invaluable and unique resources and that these resources are of major statewide significance. The Legislature further finds and declares that the delta's uniqueness is particularly characterized by its hundreds of miles of meandering waterways and the many islands adjacent thereto; that, in order to preserve the delta's invaluable resources, which include highly productive agriculture, recreational assets, fisheries, and wildlife environment, the physical characteristics of the delta should be preserved essentially in their present form; and that the key to preserving the delta's physical characteristics is the system of levees defining the waterways and producing the adjacent islands. However, the Legislature recognizes that it may not be economically justifiable to maintain all delta islands.

CHAPTER 1272

An act to amend Section 106.7 of the Water Code, relating to water.

[Approved by Governor September 30, 1985 Filed with Secretary of State September 30, 1985]

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

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) The Federal Energy Regulatory Commission's decision to apply the avoided cost benefits under the Public Utilities Regulatory Policies Act of 1978 to small hydroelectric projects has created a rush to dam and divert many small streams by developers.

(b) Most of these small hydroelectric projects, which are "qualifying small power production facilities" under Section 210 of the Public Utilities Regulatory Policies Act of 1978, would not be economical if they were subjected to free market principles, and their profitability depends significantly on the availability of ratepayer and taxpayer subsidies provided under federal law.

(c) This rush of small hydroelectric projects, which are "qualifying small power production facilities" under Section 210 of the Public Utilities Regulatory Policies Act of 1978, threatens to despoil many streams in California that provide important fishing and other recreational opportunities to Californians and are important to local economies.

(d) California's growth and economic health will continue, requiring an increased supply of affordable and dependable energy.

(e) Emphasis for the development of small hydroelectric power generation projects which are "qualifying small power production facilities" under Section 210 of the Public Utilities Regulatory Policies Act of 1978, should be placed on existing dams, diversions, and canals that are sufficient to generate power without significant adverse environmental effects.

SEC. 2. Section 106.7 of the Water Code is amended to read:

106.7. (a) It is hereby declared to be the established policy of this state to support and encourage the development of environmentally compatible small hydroelectric projects as a renewable energy source, provided that the projects do not result in surface disturbances within the following sensitive areas:

(1) Any component of the California Wild and Scenic Rivers System or the National Wild and Scenic Rivers System.

(2) Any river designated for study pursuant to Section 5(a) of the National Wild and Scenic River Act (16 U.S.C. 1276(a)). This paragraph shall not apply to any river which, upon the completion of the study, is not included in the National Wild and Scenic Rivers System.

(3) Any state or federally designated wilderness area.

(4) Any areas designated as a "Critical Condor Habitat" by the United States Fish and Wildlife Service.

(b) State agencies shall not approve small hydroelectric development within the sensitive areas specified in subdivision (a).

(c) Significant adverse impacts associated with small hydroelectric projects shall be identified by those agencies responsible for the preparation of the environmental impact document.

(d) Emphasis on the development of small hydroelectric power

generating facilities which are "qualifying small power production facilities" under Section 210 of the Public Utilities Regulatory Policies Act of 1978, shall be on existing dams, diversions, and canals with a sufficient drop so that power may be efficiently generated without significant environmental effects.

(e) When considering the economic feasibility of a proposed small hydroelectric power generating facility which is a "qualifying small power production facility" under Section 210 of the Public Utilities Regulatory Policies Act of 1978, and which is not on an existing dam, diversion, or canal, the board shall, in the water right application proceedings, make specific findings concerning the cost of mitigation measures and the cost impact of providing bypass flows to protect instream uses. The economic analysis of cost mitigation measures and power generation values shall be made using generally accepted economic techniques.

Subdivisions (d) and (e) do not apply to projects with a nameplate capacity of less than 100 kilowatts.

CHAPTER 1273

An act to amend Sections 75.41, 75.43, and 75.70 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 30, 1985 Filed with Secretary of State September 30, 1985]

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

SECTION 1. Section 75.41 of the Revenue and Taxation Code is amended to read:

75.41. (a) The auditor shall apply the current year's tax rate, as defined in Section 75.4, to the supplemental assessment or assessments, computing the amount of taxes that would be due for a full year. For property on the supplemental roll, the taxes due shall be computed in two equal installments.

(b) The taxes due shall be adjusted by a proration factor to reflect the portion of the tax year remaining as determined by the date on which the change in ownership occurred or the new construction was completed. In computing the portion of the tax year remaining, the change in ownership or completion of new construction shall be presumed to have occurred on the first day of the month following the date on which change in ownership or completion of new construction occurred.

(c) (1) If the presumed date specified in subdivision (b) is April 1, the taxes on the supplemental assessment for the current roll shall be multiplied by 0.25; and the taxes on the supplemental assessment for the roll being prepared shall be multiplied by 1.00.

(2) If the presumed date specified in subdivision (b) is May 1, the

taxes on the supplemental assessment for the current roll shall be multiplied by 0.17; and the taxes on the supplemental assessment for the roll being prepared shall be multiplied by 1.00.

(3) If the presumed date specified in subdivision (b) is June 1, the taxes on the supplemental assessment for the current roll shall be multiplied by 0.08; and the taxes on the supplemental assessment for the roll being prepared shall be multiplied by 1.00.

(4) If the presumed date specified in subdivision (b) is July 1, no supplemental assessment shall be made on the current roll, and the taxes on the supplemental assessment for the roll being prepared shall be multiplied by 1.00.

(5) If the presumed date specified in subdivision (b) is on or after August 1, and on or before March 1, the following table of factors shall be used:

If the presumed date is:	The taxes on the supplemental assessment on the current roll shall be multiplied by:
August 1	.92
September 1	.83
October 1	.75
November 1	.67
December 1	.58
January 1	.50
February 1	.42
March 1	.33

(d) After computing the taxes due, if the amount is ten dollars ($10) or less, the auditor may cancel the taxes as provided by Section 4986.8.

(e) If the supplemental assessment is a negative amount, the auditor shall follow the procedures of this section to determine the amount of refund to which the assessee is entitled.

SEC. 2. Section 75.43 of the Revenue and Taxation Code is amended to read:

75.43. (a) If a refund is due the assessee, the auditor shall make the refund within 90 days of the date of enrollment of the negative assessment on the supplemental roll. Refunds shall be made from taxes collected on assessments made on the supplemental roll.

(b) If the refund is not made as provided in subdivision (a), interest shall be paid at a rate provided by Section 5151, computed from a date 30 days after the date of enrollment of the negative assessment to the date the refund is mailed when the interest is ten dollars ($10) or more on amounts refunded under Section 5096.

SEC. 3. 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.

(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 30 calendar 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 30 calendar 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.

CHAPTER 1274

An act to amend Sections 7572, 7572.5, 7575, 7576, 7579, 7582, and 7587 of, to amend and repeal Section 7583 of, to add Sections 7586.5 and 7586.7 to, and to repeal Section 7574 of, the Government Code, to amend Sections 5651, 10950, and 11401 of, and to add Chapter 6 (commencing with Section 18350) to Part 6 of Division 9 of, the Welfare and Institutions Code, relating to minors, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1985 Filed with Secretary of State September 30, 1985.]

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

SECTION 1. Section 7572 of the Government Code is amended to read:

7572. (a) A child shall be assessed in all areas related to the suspected handicap by those qualified to make a determination of the child's need for the service before any action is taken with respect to the provision of related services or designated instruction and services to a child, including, but not limited to, services in the areas of, occupational therapy, physical therapy, psychotherapy, and other mental health assessments. All assessments required or conducted pursuant to this section shall be governed by the assessment procedures contained in Article 2 (commencing with Section 56320) of Chapter 4 of Part 30 of Division 4 of the Education Code.

(b) Occupational therapy and physical therapy assessments shall be conducted by qualified medical personnel as specified in regulations developed by the State Department of Health Services in consultation with the State Department of Education.

(c) Psychotherapy and other mental health assessments shall be conducted by qualified mental health professionals as specified in regulations developed by the State Department of Mental Health, in consultation with the State Department of Education, pursuant to this chapter.

(d) A related service or designated instruction and service shall only be added to the child's individualized education program by the individualized education program team, as described in Part 30 (commencing with Section 56000) of the Education Code, if a formal assessment has been conducted pursuant to this section, and a qualified person conducting the assessment recommended the

service in order for the child to benefit from special education. In no case shall the inclusion of necessary related services in a pupil's individualized education plan be contingent upon identifying the funding source. Nothing in this section shall prevent a parent from obtaining an independent assessment in accordance with subdivision (b) of Section 56329 of the Education Code, which shall be considered by the individualized education program team.

(1) Whenever an assessment has been conducted pursuant to subdivision (b) or (c), the recommendation of the person who conducted the assessment shall be reviewed and discussed with the parent and with appropriate members of the individualized education program team prior to the meeting of the individualized education program team. When the proposed recommendation of the person has been discussed with the parent and there is disagreement on the recommendation pertaining to the related service, the parent shall be notified in writing and may require the person who conducted the assessment to attend the individualized education program team meeting to discuss the recommendation. The person who conducted the assessment shall attend the individualized education program team meeting if requested. Following this discussion and review, the recommendation of the person who conducted the assessment shall be the recommendation of the individualized education program team members who are attending on behalf of the local educational agency.

(2) If an independent assessment for the provision of related services or designated instruction and services is submitted to the individualized education program team, review of that assessment shall be conducted by the person specified in subdivisions (b) and (c). The recommendation of the person who reviewed the independent assessment shall be reviewed and discussed with the parent and with appropriate members of the individualized education program team prior to the meeting of the individualized education program team. The parent shall be notified in writing and may request the person who reviewed the independent assessment to attend the individualized education program team meeting to discuss the recommendation. The person who reviewed the independent assessment shall attend the individualized education program team meeting if requested. Following this review and discussion, the recommendation of the person who reviewed the independent assessment shall be the recommendation of the individualized education program team members who are attending on behalf of the local agency.

(3) Any disputes between the parent and team members representing the public agencies regarding a recommendation made in accordance with paragraphs (1) and (2) shall be resolved pursuant to Chapter 5 (commencing with Section 56500) of Part 30 of Division 4 of the Education Code.

(e) Whenever a related service or designated instruction and service specified in subdivision (b) or (c) is to be considered for

inclusion in the child's individualized education program, the local education agency shall invite the responsible public agency representative to meet with the individualized education program team to determine the need for the service and participate in developing the individualized education program. If the responsible public agency representative cannot meet with the individualized education program team, then the representative shall provide written information concerning the need for the service pursuant to subdivision (d) of this section. Conference calls, together with written recommendations, are acceptable forms of participation. If the responsible public agency representative will not be available to participate in the individualized education program meeting, the local educational agency shall ensure that a qualified substitute is available to explain and interpret the evaluation pursuant to subdivision (d) of Section 56341 of the Education Code. A copy of the information shall be provided by the responsible public agency to the parents or any adult pupil for whom no guardian or conservator has been appointed.

SEC. 2. Section 7572.5 of the Government Code is amended to read:

7572.5. (a) When an assessment is conducted pursuant to Article 2 (commencing with Section 56320) of Chapter 4 of Part 30 of Division 4 of the Education Code, which determines that a child is seriously emotionally disturbed, as defined in Section 300.5 of Title 34 of the Code of Federal Regulations, and any member of the individualized education program team recommends residential placement based on relevant assessment information, the individualized education program team shall be expanded to include a representative of the county mental health department.

(b) The expanded individualized education program team shall review the assessment and determine whether:

(1) The child's needs can reasonably be met through any combination of nonresidential services, preventing the need for out-of-home care.

(2) Residential care is necessary for the child to benefit from educational services.

(3) Residential services are available which address the needs identified in the assessment and which will ameliorate the conditions leading to the seriously emotionally disturbed designation.

(c) If the review required in subdivision (b) results in an individualized education program which calls for residential placement, the individualized education program shall include all the items outlined in Section 56345 of the Education Code, and shall also include:

(1) Designation of the county mental health department as lead case manager. Lead case management responsibility may be delegated to the county welfare department by agreement between the county welfare department and the designated mental health department. The mental health department shall retain financial

responsibility for provision of case management services.

(2) Provision for a review of the case progress, the continuing need for out-of-home placement, the extent of compliance with the individualized education program, and progress toward alleviating the need for out-of-home care, by the full individualized education program team at least every six months.

(3) Identification of an appropriate residential facility for placement with the assistance of the county welfare department as necessary.

SEC. 3. Section 7574 of the Government Code is repealed.

SEC. 4. Section 7575 of the Government Code is amended to read:

7575. (a) (1) Notwithstanding any other provision of law, the State Department of Health Services, or any designated local agency administering the California Children's Services, shall be responsible for the provision of medically necessary occupational therapy and physical therapy, as specified by Section 250 et seq. of the Health and Safety Code, by reason of medical diagnosis and when contained in the child's individualized education program.

(2) Related services or designated instruction and services not deemed to be medically necessary by the State Department of Health Services, which the individualized education program team determines are necessary in order to assist a child to benefit from special education, shall be provided by the local education agency by qualified personnel whose employment standards are covered by the Education Code and implementing regulations.

(b) The department shall determine whether a California Children's Services eligible pupil, or a pupil with a private medical referral needs medically necessary occupational therapy or physical therapy. A medical referral shall be based on a written report from a licensed physician and surgeon who has examined the pupil. The written report shall include the following:

(1) The diagnosed neuromuscular, musculoskeletal, or physical handicapping condition prompting the referral.

(2) The referring physician's treatment goals and objectives.

(3) The basis for determining the recommended treatment goals and objectives, including how these will ameliorate or improve the pupil's diagnosed condition.

(4) The relationship of the medical disability to the pupil's need for special education and related services.

(5) Relevant medical records.

(c) The department shall provide the service directly or by contracting with another public agency, qualified individual, or a state-certified nonpublic nonsectarian school or agency.

(d) Local education agencies shall provide necessary space and equipment for the provision of occupational therapy and physical therapy in the most efficient and effective manner.

(e) The department shall also be responsible for providing the services of a home health aide when the local education agency

considers a less restrictive placement from home to school for a pupil for whom both of the following conditions exist:

(1) The California Medical Assistance Program provides a life-supporting medical service via a home health agency during the time in which the pupil would be in school or traveling between school and home.

(2) The medical service provided requires that the pupil receive the personal assistance or attention of a nurse, home health aide, parent or guardian, or some other specially trained adult in order to be effectively delivered.

SEC. 5. Section 7576 of the Government Code is amended to read:

7576. Notwithstanding any other provision of law, the State Department of Mental Health, or any community mental health service designated by the State Department of Mental Health, shall be responsible for the provision of psychotherapy or other mental health services, as defined by regulation by the State Department of Mental Health, developed in consultation with the State Department of Education, when required in the child's individualized education program. This service shall be provided directly or by contracting with another public agency, qualified individual, or a state-certified nonpublic, nonsectarian school or agency.

SEC. 6. Section 7579 of the Government Code is amended to read:

7579. (a) Prior to placing a handicapped child or a child suspected of being handicapped in a residential facility, outside the child's home, a court, regional center for the developmentally disabled, or public agency other than an educational agency, shall notify the administrator of the special education local plan area in which the residential facility is located. The administrator of the special education local plan area shall provide the court or other placing agency with information about the availability of an appropriate public or nonpublic, nonsectarian special education program in the special education local plan area where the residential facility is located.

(b) Notwithstanding Section 56159 of the Education Code, the involvement of the administrator of the special education local plan area in the placement discussion, pursuant to subdivision (a), shall in no way obligate a public education agency to pay for the residential costs and the cost of noneducational services for a child placed in a licensed children's institution or foster family home.

(c) It is the intent of the Legislature that this section will encourage communication between the courts and other public agencies which engage in referring children to, or placing children in, residential facilities, and representatives of local education agencies. It is not the intent of the section to hinder the courts or public agencies in their responsibilities for placing handicapped children in residential facilities when appropriate.

SEC. 7. Section 7582 of the Government Code is amended to

read:

7582. Assessments and therapy treatment services provided under programs of the State Department of Health Services or the State Department of Mental Health, or their designated local agencies, rendered to a child referred by a local education agency for an assessment or a handicapped child with an individualized education program, shall be exempt from financial eligibility standards and family repayment requirements for these services when rendered pursuant to this chapter.

SEC. 8. Section 7583 of the Government Code is amended to read:

7583. Each local agency affected by this chapter shall estimate expenditures which were previously borne by the agency which will, as a result of enactment of this chapter, shift to another agency, or shall identify and estimate its responsibility for expenditures which will be acquired by the agency as a result of enactment of this chapter. The agency shall report the estimated shifts in responsibility in costs through appropriate state agencies by March 15, 1985, and report actual shifts in expenditures annually by March 15 in subsequent years. The appropriate state agencies shall submit this information to the Department of Finance annually by April 30.

(b) The Department of Finance shall, in the annual Budget Act, recommend appropriate adjustments, if any, in allocations and entitlements to local agencies to reflect any shifts in expenditures caused by this chapter.

(c) Any reductions in state allocations for local educational agencies resulting from this chapter shall be applied equally on a pro rata basis by the Superintendent of Public Instruction.

(d) By January 15, 1985, the superintendent and the Secretary of Health and Welfare shall jointly develop uniform data collection forms to be used by local agencies in reporting under this section.

(e) This section shall remain in effect only until July 1, 1986, and as of that date is repealed, unless a later enacted statute, which is chaptered before July 1, 1986, deletes or extends this date.

SEC. 9. Section 7586.5 is added to the Government Code, to read:

7586.5. Not later than January 1, 1988, the Superintendent of Public Instruction and the Secretary of Health and Welfare shall jointly submit to the Legislature and the Governor a report on the implementation of this chapter. The report shall include, but not be limited to, information regarding the number of complaints and due process hearings resulting from this chapter.

SEC. 10. Section 7586.7 is added to the Government Code, to read:

7586.7. The Superintendent of Public Instruction and the Secretary of Health and Welfare shall jointly prepare and implement within existing resources a plan for in-service training of state and local personnel responsible for implementing the provisions of this chapter.

SEC. 11. Section 7587 of the Government Code is amended to

read:

7587. By January 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 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. The directors of each department shall adopt all regulations pursuant to this section as emergency regulations in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the 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. These regulations shall not be subject to the review and approval of the Office of Administrative Law 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. Regulations adopted pursuant to this section shall be developed with the maximum feasible opportunity for public participation and comments.

SEC. 12. Section 5651 of the Welfare and Institutions Code is amended to read:

5651. The annual Short-Doyle plan for each county shall include all of the following:

(a) A detailed presentation of all expected expenditures of county, state, and federal government funds and all anticipated public and private revenues.

(b) A programmatic description of each of the services provided for in subdivision (a) including all of the following:

(1) Program type using definitions prescribed in the cost allocation and planning model where applicable.

(2) The number of staff in full-time equivalents if this information is applicable to the service type.

(3) An estimate of the unduplicated number of clients served and the number of units of service to be provided.

(4) The priority populations to be served.

(5) The number of beds if this information is applicable to the service type.

(6) A detailed description of the program if the service is one newly added in the year for which the annual Short-Doyle plan is submitted or newly added in the prior year.

(7) A detailed description of the service if the number of units of services or the cost per unit of service has changed more than 25 percent from the annual Short-Doyle plan submitted for the previous year.

(8) A detailed description of renovation or remodeling costs, if any.

(c) Additional information as may be necessary to meet local planning needs as determined by the county.

(d) A summary presentation of all expected expenditures of county, state, and federal government funds and all anticipated public and private revenues.

(e) Assurances that the county is in compliance with the following requirements:

(1) The Local Mental Health Advisory Board has reviewed and approved procedures insuring citizen and professional involvement leading to the formulation and adoption of the annual Short-Doyle plan.

(2) A quality assurance plan approved by the department is in force.

(3) Certification review hearing procedures approved by the department are in force.

(4) A plan for providing case management services approved by the department is in force.

(f) Other information determined to be necessary by the director.

(g) A description of the services required by Sections 7571 and 7576 of the Government Code, including the cost of those services.

Any county that wishes to modify its plan shall obtain prior approval by the department in accordance with procedures established by the director.

SEC. 13. Section 10950 of the Welfare and Institutions Code is amended to read:

10950. If any applicant for or recipient of public social services is dissatisfied with any action of the county department relating to his application for or receipt of public social services, if his application is not acted upon with reasonable promptness, or if any person who desires to apply for public social services is refused the opportunity to submit a signed application therefor, and is dissatisfied with such refusal, he shall, in person or through an authorized representative, without the necessity of filing a claim with the board of supervisors, upon filing a request with the State Department of Social Services or the State Department of Health Services, whichever department administers the public social service, be accorded an opportunity for a fair hearing.

Notwithstanding any other provision of this code, there is no right to a state hearing when either (1) state or federal law requires automatic grant adjustments for classes of recipients unless the reason for an individual request is incorrect grant computation, or (2) the sole issue is a federal or state law requiring an automatic change in services or medical assistance which adversely affects some or all recipients.

For the purposes of administering health care services and medical assistance, the State Director of Health Services shall have those powers and duties conferred on the Director of Social Services by this chapter to conduct fair hearings in order to secure approval of a state plan under the provisions of applicable federal law.

The State Director of Health Services may contract with the State Department of Social Services for the provisions of fair hearings in accordance with this chapter.

As used in this chapter, "recipient" means an applicant for or recipient of public social services except aid exclusively financed by county funds or aid under Chapter 3 (commencing with Section 12000) of Part 3 of this division, or those activities conducted under Chapter 6 (commencing with Section 18350) of Part 6.

SEC. 14. 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 was placed in foster care, reasonable efforts were 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 apply:

(A) The child has been adjudged a dependent child of the court on the grounds that he or she is a person described by Section 300.

(B) The child 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) The child has been detained under a court order pursuant to Section 319 or 636 which remains in effect.

(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.

(3) The child is living in the home of a nonrelated legal guardian.

(c) The child has been placed in foster care under the federal Indian Child Welfare Act. 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 that act.

SEC. 15. Chapter 6 (commencing with Section 18350) is added to Part 6 of Division 9 of the Welfare and Institutions Code, to read:

CHAPTER 6. SERIOUSLY EMOTIONALLY DISTURBED CHILDREN: 24-HOUR OUT-OF-HOME CARE

18350. (a) Payments for 24-hour out-of-home care shall be provided under this chapter on behalf of any seriously emotionally disturbed child who has been placed out-of-home pursuant to an individualized education program developed under Section 7572.5 of the Government Code. These payments shall not constitute an aid payment or aid program.

(b) Payments shall only be made to children placed in privately operated residential facilities licensed in accordance with the Community Care Facilities Act.

(c) Payments shall be based on rates established in accordance with Sections 11461, 11462, and 11463 and shall be based on providers' actual allowable costs.

(d) Payments for 24-hour out-of-home care under this section shall not result in any cost to the seriously emotionally disturbed child or his or her parent or parents.

18351. (a) Payments shall be issued by the county welfare department to residential care providers upon receipt of authorization documents from the State Department of Mental Health or a designated county mental health agency. The county welfare department located in the same county as the county mental health agency designated to provide case management services shall be responsible for payment under this section. Authorization documents shall be submitted directly to the county welfare department clerical unit responsible for issuance of warrants and shall include information sufficient to demonstrate that the child meets all eligibility criteria established in regulations by the State Department of Mental Health, developed in consultation with the State Department of Education.

(b) The county welfare department shall submit reports to the State Department of Social Services for reimbursement of payments issued to seriously emotionally disturbed children for 24-hour out-of-home care.

18352. County welfare departments may, at their option and with approval of the State Department of Social Services and other appropriate agencies, enter into agreements with other local agencies for the delivery of a single payment for all related services for a seriously emotionally disturbed child to a residential care provider.

18353. When an individualized education program calls for 24-hour out-of-home care, the county welfare department shall provide assistance, as necessary, in identifying a facility suited to the child's needs and in placing the child in the facility.

18354. (a) If a provider of 24-hour out-of-home care to a child who has been placed pursuant to Section 7572.5 of the Government Code in a 24-hour out-of-home placement disputes an action of the

designated county mental health agency regarding the providers eligibility for payment, the provider may request a review of the issue by the designated county mental health agency. Designated county mental health agencies may establish policies and procedures, as may be necessary, to implement this subdivision.

(b) If the issue remains unresolved after the review by the designated county mental health agency, then the provider may request a review of the issue by the State Department of Mental Health. The Director of Mental Health may establish policies and procedures, as may be necessary, to implement this subdivision. The review under this subdivision shall be limited to the issue of whether the eligibility for payment criteria established by the State Department of Mental Health was correctly applied.

18355. Notwithstanding any other provision of the law, 24-hour out-of-home care for seriously emotionally disturbed children who are placed in accordance with Section 7572.5 of the Government Code shall be funded from a separate appropriation in the budget of the State Department of Social Services in order to fund both 24-hour out-of-home care payment and local administrative costs. Reimbursement for 24-hour out-of-home care payment costs shall be from that appropriation, subject to the same sharing ratio as prescribed in subdivision (c) of Section 15200, and available funds. Reimbursements for local administrative costs shall also be from that appropriation, subject to the same sharing ratio as prescribed in Section 15204.2 for the Aid to Families with Dependent Children program, and available funds.

SEC. 15.5. (a) The Legislature recognizes that current estimates of the number of severely emotionally disturbed children in the state who need 24-hour out-of-home care may be less than the number of children in need of such care as determined appropriate through the Individual Education Plan (IEP) process established under Chapter 1747, of the Statutes of 1984.

(b) Therefore, the State Department of Social Services and the State Department of Education shall jointly report to the Joint Legislative Budget Committee by January 1, 1988, regarding any growth in the number of severely emotionally disturbed children determined to need 24-hour out-of-home care as a result of Chapter 1747 of the Statutes of 1984. This report shall include documentation of the cost impacts on the state, county, and federal governments for the cost of 24-hour out-of-home care for these children.

SEC. 16. Funds not to exceed the total amount reported by the State Department of Education, as verified by the Department of Finance pursuant to Section 7583 of the Government Code and Section 4 of Chapter 1747 of the Statutes of 1984, shall be transferred July 1, 1986, from the State Department of Education to the state departments responsible for services specified in Chapter 26 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code and designated in each pupil's individualized education program.

SEC. 17. 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. 18. The sum of one million six hundred thousand dollars ($1,600,000) is hereby appropriated from the General Fund to the State Department of Mental Health for purposes of conducting assessments and participating in developing individualized education programs as required by Chapter 26 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code, during the period of March 1, 1986 through June 30, 1986. Notwithstanding Section 5705 of the Welfare and Institutions Code, expenditures made by a community mental health service designated by the State Department of Mental Health to provide the services described in this section shall be financed on a basis of 100 percent state funds during the period from March 1, 1986, to June 30, 1986, inclusive.

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 necessity are:

In order for regulations to be developed in time for the orderly transfers of service and funding responsibility required by Chapter 1747 of the Statutes of 1984, it is necessary that this bill take effect immediately.

CHAPTER 1275

An act to amend Sections 51005, 51335, and 52080 of the Health and Safety Code, relating to housing.

[Approved by Governor September 30, 1985 Filed with Secretary of State September 30, 1985]

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

SECTION 1. Section 51005 of the Health and Safety Code is amended to read:

51005. (a) The agency shall, within 90 days following the close of each fiscal year, submit an annual report of its activities under this division for the preceding year to the Governor, the Secretary of the Business and Transportation Agency, the Director of Housing and Community Development, the Treasurer, the Joint Legislative Budget Committee, and the Legislature. The report shall set forth a complete operating and financial statement of the agency during the concluded fiscal year. The report shall specify the number of units

assisted, the distribution of units among the metropolitan, nonmetropolitan, and rural areas of the state, and shall contain a summary of statistical data relative to the incomes of households occupying assisted units, the monthly rentals charged to occupants of rental housing developments, and the sales prices of housing developments purchased during the previous fiscal year by housing sponsors who are persons or families of low or moderate income. The report shall also include a statement of accomplishment during the previous year with respect to the agency's progress, priorities, and affirmative action efforts. The agency shall specifically include in its report on affirmative action goals, statistical data on the numbers and percentages of minority sponsors, developers, contractors, subcontractors, suppliers, architects, engineers, attorneys, mortgage bankers or other lenders, insurance agents and managing agents. The agency shall cause an audit of its books and accounts with respect to its activities under this division to be made at least once during each fiscal year by an independent certified public accountant and the agency shall be subject to audit by the Department of Finance not more often than once each fiscal year.

(b) The agency shall also include in its annual report information with respect to the number of manufactured housing units assisted by the agency.

(c) Commencing with the report prepared for the 1985–86 fiscal year, the agency shall include information with respect to the proceeds derived from the issuance of bonds or securities and any interest or other increment derived from the investment of bonds or securities, and the uses for which those proceeds or increments are being made as provided for in Section 51365. The report shall include the amount by which each fund balance exceeds indenture requirements.

SEC. 2. Section 51335 of the Health and Safety Code is amended to read:

51335. (a) (1) Not less than 20 percent of the total number of units in a multifamily rental housing development financed, or for which financing has been extended or committed, pursuant to this chapter from the proceeds of sale of each bond issuance of the agency shall be for occupancy on a priority basis by lower income households. If a multifamily rental housing development is located within a targeted area project, as defined by Section 103(b)(12)(A) of Title 26 of the United States Code, not less than 15 percent of the total number of units financed, or for which financing has been extended or committed pursuant to this chapter, shall be for occupancy on a priority basis by lower income households. Not less than one-half of the units required for occupancy on a priority basis by lower income households shall be for occupancy on a priority basis for very low income households.

The rental payments on the units required for occupancy by very low income households shall not exceed 30 percent of 50 percent of area median income. If the sponsor elects to establish a base rent for

all or part of the units for lower income households and very low income households, the base rents shall be adjusted for household size. In adjusting rents for household size, the agency shall assume that one person will occupy a studio unit, two persons will occupy a one bedroom unit, three persons will occupy a two bedroom unit, four persons will occupy a three bedroom unit, and five persons will occupy a four bedroom unit.

(2) The local agency issuing permits for the development of the multifamily rental housing development shall consider opportunities to contribute to the economic feasibility of the units and to the provision of units for very low income households through concessions and inducements such as the following:

(A) Reductions in construction and design requirements.

(B) Reductions in setback and square footage requirements and the ratio of vehicular parking spaces that would otherwise be required.

(C) Granting density bonuses.

(D) Providing expedited processing of permits.

(E) Modifying zoning code requirements to allow mixed use zoning.

(F) Reducing or eliminating fees and charges for filing and processing applications, petitions, permits, planning services, water and sewer connections, and other fees and charges.

(G) Reducing or eliminating requirements relating to monetary exactions, dedications, reservations of land, or construction of public facilities.

(H) Other financial incentives or concessions for the multifamily rental housing development which result in identifiable cost reductions, as determined by the agency. The agency shall ensure that the local agency issuing permits for the development considers its responsibilities under this section and makes a good faith effort to enhance the feasibility of the project and to provide housing for lower income households and very low income households.

(3) The agency shall not permit a selection criteria to be applied to certificate holders under Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec. 1437f) that is any more burdensome than the criteria applied to all other prospective tenants.

(4) It is the intent of the Legislature that the agency finance projects that assist in meeting the urgent need for providing shelter for lower income households, very low income households, and persons and families of low or moderate income. To that end, the quality of materials and the amenities provided should not be excessive so as to hinder the prospect of achieving the stated goal. The Legislature finds and declares that the design standards utilized by the agency in the past including, but not limited to, the design requirements adopted to govern the new construction program under Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec. 1437f), are substantially in excess of those required for a decent, healthy, and safe residential unit and intends, by the amendment

adding this paragraph to this section by the Statutes of 1985, that the agency finance multifamily rental developments with substantially less costly design requirements than those required by the agency prior to January 1, 1986.

(5) It is the intent of the Legislature that the agency finance projects that assist in meeting the urgent need for providing shelter for families. To that end, developments with three and four bedroom units affordable to larger families shall have priority over competing developments.

(b) As a condition of financing pursuant to this chapter, the housing sponsor shall enter into a regulatory agreement with the agency providing that units reserved for occupancy by lower income households remain available on a priority basis for occupancy until the bonds are retired. The regulatory agreement shall contain a provision making the covenants and conditions of the agreement binding upon successors in interest of the housing sponsor. The regulatory agreement shall be recorded in the office of the county recorder of the county in which the multifamily rental housing development is located.

(c) The agency shall ensure that units occupied by lower income households are of comparable quality and offer a range of sizes and number of bedrooms comparable to those units which are available to other tenants.

(d) (1) The agency shall give priority to processing construction loans and mortgage loans or may take other steps such as reducing loan fees for multifamily rental housing developments which incorporate innovative and energy-efficient techniques which reduce development or operating costs and which have the lowest feasible per unit cost, as determined by the agency, based on efficiency of design, the elimination of improvements that are not required by applicable building standards, or a reduction in the amount of local fees imposed on the development.

(2) The agency shall give equal priority to processing construction loans and mortgage loans or may take other steps such as reducing loan fees on multifamily rental housing developments which do any of the following:

(A) Utilize federal housing or development assistance.

(B) Utilize redevelopment funds or other local financial assistance, including, but not limited to, contributions of land, or for which local fees have been reduced.

(C) Are sponsored by a nonprofit housing organization.

(D) Provide a significant number of housing units, as determined by the agency, as part of a coordinated jobs and housing plan adopted by a local government.

(E) Exceed a ratio whereby 20 percent of the units are reserved for occupancy by lower income households, or whereby 10 percent of the units are reserved for occupancy by very low income households, or which provide units for lower income households or very low income households for the longest period of time beyond

the minimum number of years.

(e) (1) New and existing rental housing developments may be syndicated after prior written approval of the agency. The agency shall grant that approval only after the agency determines that the terms and conditions of the syndication comply with this section.

(2) The terms and conditions of the syndication shall not reduce or limit any of the requirements of this chapter or regulations adopted or documents executed pursuant to this chapter. No requirements of the state shall be subordinated to the syndication agreement. A syndication shall not result in the provision of fewer assisted units, or the reduction of any benefits or services, than were in existence prior to the syndication agreement.

(f) At the option of the agency, the amendments to this section made by Chapter 907 of the Statutes of 1983 may be made applicable to any multifamily rental housing development financed by the issuance, on or after September 3, 1982, of bonds authorized by this chapter.

SEC. 3. Section 52080 of the Health and Safety Code is amended to read:

52080. (a) (1) Not less than 20 percent of the total number of units in a multifamily rental housing development financed, or for which financing has been extended or committed, pursuant to this chapter from the proceeds of sale of each bond issuance of the city or county shall be for occupancy on a priority basis by lower income households, as defined by Section 50079.5. If a multifamily rental housing development is located within a targeted area project, as defined by Section 103 (b) (12) (A) of Title 26 of the United States Code, not less than 15 percent of the total number of units financed, or for which financing has been extended or committed pursuant to this chapter, shall be for occupancy on a priority basis by lower income households. Not less than one-half of the units required for occupancy on a priority basis by lower income households shall be for occupancy on a priority basis for very low income households, as defined by Section 50105.

The rental payments on the units required for occupancy by very low income households shall not exceed 30 percent of 50 percent of area median income. If the sponsor elects to establish a base rent for all or part of the units for lower income households and very low income households, the base rents shall be adjusted for household size. In adjusting rents for household size, the agency shall assume that one person will occupy a studio unit, two persons will occupy a one bedroom unit, three persons will occupy a two bedroom unit, four persons will occupy a three bedroom unit, and five persons will occupy a four bedroom unit.

(2) The governing body shall ensure that the local agency issuing permits for the development of the multifamily rental housing development shall consider opportunities to contribute to the economic feasibility of the units and to the provision of units for very low income households through concessions and inducements such

as the following:

(A) Reductions in construction and design requirements.

(B) Reductions in setback and square footage requirements and the ratio of vehicular parking spaces that would otherwise be required.

(C) Granting density bonuses.

(D) Providing expedited processing of permits.

(E) Modifying zoning code requirements to allow mixed use zoning.

(F) Reducing or eliminating fees and charges for filing and processing applications, petitions, permits, planning services, water and sewer connections, and other fees and charges.

(G) Reducing or eliminating requirements relating to monetary exactions, dedications, reservations of land, or construction of public facilities.

(H) Other financial incentives or concessions for the multifamily rental housing development which result in identifiable cost reductions, as determined by the governing body. The governing body shall ensure that the local agency issuing permits for the development considers its responsibilities under this section and makes a good faith effort to enhance the feasibility of the project and to provide housing for lower income households and very low income households.

(3) The governing body shall not permit a selection criteria to be applied to certificate holders under Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec. 1437f) that is more burdensome than the criteria applied to all other prospective tenants.

(4) It is the intent of the Legislature that the governing body finance projects that assist in meeting the urgent need for providing shelter for lower income households, very low income households, and persons and families of low or moderate income. To that end, the quality of materials and the amenities provided should not be excessive so as to hinder the prospect of achieving the stated goal. The Legislature finds and declares that the design standards utilized in the past, including, but not limited to, the design requirements adopted to govern the new construction program under Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec. 1437f), are substantially in excess of those required for a decent, healthy, and safe residential unit and intends, by the amendment adding this paragraph to this section by the Statutes of 1985, that cities and counties finance multifamily rental developments with substantially less costly design requirements that those required by the governing body prior to January 1, 1986.

(5) It is the intent of the Legislature that the governing body finance projects that assist in meeting the urgent need for providing shelter for families. To that end, developments with three and four bedroom units affordable to larger families shall have priority over competing developments.

(b) As a condition of financing pursuant to this chapter, the

housing sponsor shall enter into a regulatory agreement with the city or county providing that units reserved for occupancy by lower income households remain available on a priority basis for occupancy until the bonds are retired. The regulatory agreement shall contain a provision making the covenants and conditions of the agreement binding upon successors in interest of the housing sponsor. The regulatory agreement shall be recorded in the office of the county recorder of the county in which the multifamily rental housing development is located.

(c) The governing body shall ensure that units occupied by lower income households are of comparable quality and offer a range of sizes and number of bedrooms comparable to those units which are available to other tenants.

(d) (1) The city or county shall give priority to processing construction loans and mortgage loans or may take other steps such as reducing loan fees or other local fees for multifamily rental developments which incorporate innovative and energy-efficient techniques which reduce development or operating costs and which have the lowest feasible per unit cost, as determined by the city or county, based on efficiency of design or the elimination of improvements that are not required by applicable building standards.

(2) The city or county shall give equal priority to processing construction loans and mortgage loans or may take other steps such as reducing loan fees or other local fees on multifamily rental housing developments which do any of the following:

(A) Utilize federal housing or development assistance.

(B) Utilize redevelopment funds or other local financial assistance, including, but not limited to, contributions of land.

(C) Are sponsored by a nonprofit housing organization.

(D) Provide a significant number of housing units, as determined by the city or county, as part of a coordinated jobs and housing plan adopted by the city or county.

(E) Exceed a ratio whereby 20 percent of the units are reserved for occupancy by lower income households, or whereby 10 percent of the units are reserved for occupancy by very low income households, or which provide units for lower income households or very low income households for the longest period of time beyond the minimum number or years.

(e) (1) New and existing rental housing developments may be syndicated after prior written approval of the governing body. The governing body shall grant that approval only after the city or county determines that the terms and conditions of the syndication comply with this section.

(2) The terms and conditions of the syndication shall not reduce or limit any of the requirements of this chapter or regulations adopted or documents executed pursuant to this chapter. No requirements of the city or county shall be subordinated to the syndication agreement. A syndication shall not result in the provision

of fewer assisted units, or the reduction of any benefits or services, than were in existence prior to the syndication agreement.

(f) At the option of the city or county, the amendments to this subdivision made by Chapter 907 of the Statutes of 1983 may be made applicable to any multifamily rental housing development financed by the issuance, on or after September 3, 1982, of bonds authorized by this chapter.

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.

CHAPTER 1276

An act to amend Sections 33760, 33760.5, and 34312.3 of the Health and Safety Code, relating to housing.

[Approved by Governor September 30, 1985 Filed with Secretary of State September 30, 1985]

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

SECTION 1. The Legislature declares that the California Housing Finance Agency shall, in accordance with the general requirements of Section 51007 of the Health and Safety Code, attempt to develop specific programs, as determined by the board of directors, addressing the need for rental housing for lower income households and very low income households utilizing any interest earned on available surplus funds. The agency shall submit a report on the proposed programs to the Legislature on or before April 1, 1986.

SEC. 2. Section 33760 of the Health and Safety Code is amended to read:

33760. (a) Within its territorial jurisdiction, an agency may determine the location and character of any residential construction to be financed under 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, or make loans to qualified mortgage lenders, for financing any of the following:

(1) Residential construction within a redevelopment project area.

(2) Residential construction of residences in which the dwelling units are committed, for the period during which the loan is outstanding, for occupancy by persons or families who are eligible for

financial assistance specifically provided by a governmental agency for the benefit of occupants of the residence.

(3) To the extent required by Section 103A of Title 26 of the United States Code, as amended, to maintain the exemption from federal income taxes of interest on bonds or notes issued by the agency under this chapter, residences located within targeted areas, as defined by Section 103(b) (12) (A) of Title 26 of the United States Code. Any loans to qualified mortgage lenders shall be made under terms and conditions which, in addition to other provisions as determined by the agency, shall require the qualified mortgage lender to use all of the net proceeds thereof, directly or indirectly, for the making of mortgage loans or construction loans in an appropriate principal amount equal to the amount of the net proceeds. Those mortgage loans may, but need not, be insured.

(b) (1) Not less than 20 percent (15 percent in target areas) of the units in any residential project financed pursuant to this section on or after January 1, 1986, shall be occupied by, or made available to, individuals of low and moderate income, as defined by Section 103(b) (12) (C) of Title 26 of the United States Code. If the sponsor elects to establish a base rent for units reserved for lower income households, the base rents shall be adjusted for household size, as determined pursuant to Section 8 of the United States Housing Act of 1937 (42 U.S.C. 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.

(2) Not less than one-half of the units described in paragraph (1) shall be occupied by, or made available to, very low income households, as defined by Section 50105. The rental payments 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. 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.

(c) No agency may issue any bonds on or after January 1, 1986, until the 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 agency has filed that information.

(d) Units required to be reserved for occupancy as provided in subdivision (b) and financed with the proceeds of bonds issued on or after January 1, 1986, shall remain occupied by, or made available to, those persons until the bonds are retired.

SEC. 3. 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 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 Title 26 of the United States Code. If the sponsor elects to establish a base rent for units reserved for lower income households, the base rents shall be adjusted for household size, as determined pursuant to Section 8 of the United States Housing Act of 1937 (42 U.S.C. 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) Not less than one-half of the low and moderate income units described in subdivision (c) shall be occupied by, or made available to, very low income households, as defined in Section 50105. The rental payments 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. 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 four-bedroom unit.

(e) No agency may issue any bonds on or after January 1, 1986, until the 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 agency has filed that information.

(f) Units required to be reserved for occupancy by subdivisions (c) and (d) and financed with the proceeds of bonds issued on or after January 1, 1986, shall remain occupied by, or made available to, those persons until the bonds are retired.

(g) 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 34312.3 of the Health and Safety Code is amended to read:

34312.3. (a) Subject to the requirements of this section and of Article 5 (commencing with Section 34350), an authority may do any of the following:

(1) Issue revenue bonds for the purpose of financing the construction or development of multifamily rental housing and for the provision of capital improvements in connection with and determined necessary to the multifamily rental housing.

(2) Make or undertake commitments to make construction loans and mortgage loans to finance the development of multifamily rental housing.

(3) Purchase or undertake, directly or indirectly through lending institutions, commitments to purchase, construction loans, and mortgage loans originated in accordance with a financing agreement with the authority to finance the development of multifamily rental housing or make loans to lending institutions under terms and conditions which, in addition to other provisions determined by the authority, shall require the lending institutions to use the net proceeds of the loans for the making, directly or indirectly, of construction loans or mortgage loans to finance the development of multifamily rental housing.

(b) An authority may develop, rehabilitate, or finance housing projects or participate in the development, rehabilitation, or financing of housing projects; or purchase, sell, lease, own, operate, or manage housing projects so assisted, subject to all of the requirements of this section.

So long as the proceeds of any sale, lease, or other disposition of real property, net of the cost of sale, are to be used directly to assist a housing project pursuant to this section for persons of low income, and the funds in any trust fund established pursuant to subdivision (f) are used directly to assist housing units for persons of very low income, an authority may, after a public hearing, sell, lease, or otherwise dispose of the real property without complying with any provision of law concerning disposition of surplus property, including, but not limited to, Sections 34315.5 and 34315.7.

An authority may convey surplus lands it acquires from another public agency to a nonprofit or private developer for development of single-family homes where the development will provide for homeownership for persons and families of low or moderate income, as defined in Section 50093. This conveyance shall be after a public hearing. With the exception of subdivisions (b), (c), and (d) of Section 34315.7, the conveyance need not comply with any law concerning the disposition of surplus properties, including, but not limited to, Section 34315.5 or subdivision (a) of Section 34315.7. The proceeds of any sale or other disposition of surplus land, net of the cost of sale, shall be used to assist a housing project pursuant to this section for persons of low income.

(c) (1) (A) Not less than 20 percent of all units in housing projects assisted by an authority pursuant to this section shall be available for occupancy on a priority basis to persons of low income. In the case of housing projects located within a targeted area, as defined by Section 103(b)(12)(A) of Title 26 of the United States Code, not less than 15 percent of all units in such housing projects assisted pursuant to this section shall be for occupancy on a priority basis by persons of low income.

(B) If the sponsor elects to establish a base rent for units reserved for lower income households, the base rents shall be adjusted for household size, as determined pursuant to Section 8 of the United States Housing Act of 1937 (42 U.S.C. 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.

(2) (A) Not less than one-half of the units required to be available for occupancy pursuant to paragraph (1) and financed with any bonds issued on or after January 1, 1986, shall be occupied by, or made available to, very low income households, as defined by Section 50105.

(B) The rental payments 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. 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.

(3) Any indebtedness incurred pursuant to a mortgage loan financed under the terms of this chapter shall be subject to acceleration and the balance owing declared immediately due and payable upon any sale of an owner-occupied residence to a purchaser who does not meet the required qualifications for borrowers as established by the authority.

(4) The authority shall require the owners of housing projects assisted pursuant to this section to accept as tenants, on the same basis as all other prospective tenants, in the units reserved for very low income households, any very low income households who are recipients of federal certificates for rent subsidies pursuant to the existing program under Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec. 1437f), or its successor. The authority shall not permit a selection criteria to be applied to Section 8 certificate holders that is any more burdensome than the criteria applied to all other prospective tenants.

(5) No resident in housing units assisted pursuant to this section shall be denied continued occupancy or ownership because, after admission, the resident's family income increases to exceed the

eligibility level. However, the authority shall ensure that percentage requirements of this section shall continue to be met by providing the next available unit or units to persons of low income or by taking other actions to satisfy the percentage requirements of this section.

(6) In determining whether the percentage requirements of subdivision (c) have been achieved, the following terms and conditions shall be applied:

(A) The requirement that 20 percent or 15 percent, as the case may be, of the housing units assisted by an authority pursuant to this section shall be available on a priority basis to, or occupied by, households whose adjusted gross income does not exceed the applicable limits prescribed by subdivision (c) shall apply to the aggregate number of units assisted by an authority pursuant to this section.

(B) This section applies only to housing units first assisted after January 1, 1983, and the percentage requirements of subdivision (c) shall be complied with by January 1, 1986, and on January 1 of each even-numbered year thereafter.

(C) The percentage requirements of subdivision (c) shall be achieved within each of the following categories: (1) rental housing developments; (2) homeownership developments; and (3) rehabilitation financing. Housing units provided by rehabilitation financing shall not be counted within either of the first two categories.

(d) Units required to be reserved for occupancy by subdivision (c) and financed with the proceeds of bonds issued on or after January 1, 1986, shall remain occupied by, or made available to, those persons until the bonds are retired.

(e) No housing authority may issue any bonds on or after January 1, 1986, until the 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 housing authority has filed that information.

(f) Multifamily rental housing financed pursuant to this section shall not be subject to the requirements of subparagraph (B) of paragraph (1) and paragraph (2) of subdivision (c), and the requirements of subdivision (d), if all of the following requirements are fulfilled:

(1) The housing authority offers each tenant a homeownership opportunity when the bonds are retired.

(2) A special trust fund or account which is funded with bond issuance proceeds or developer contributions, or both, is established no later than the time that the multifamily rental housing is first occupied. The initial funding of the account shall be no less than 5 percent of the face value of the bonds issued for the multifamily rental housing project. Upon repayment of the bonds, these funds, and all interest accruing thereon, less any amounts necessary to pay outstanding claims, shall be used to assist housing units for persons of very low income.

(3) The requirements of subparagraph (A) of paragraph (1) and subparagraph (A) of paragraph (2) of subdivision (c) shall remain in effect for the periods required by Section 103(b)(12)(B) of Title 26 of the United States Code.

(g) It is the intent of the Legislature, and the Legislature declares, that housing authorities are the local entities with primary responsibility for providing housing for low-income and very low income households within their jurisdictions. However, recognizing that housing projects only for low-income households cannot be adequately assisted or developed with currently available funds, and that excess funds from housing projects assisted pursuant to this section can be utilized to further assist in the provision of housing for lower income households, it is the intent of the Legislature that the authorization of this section is to be used to enhance and supplement the traditional housing authority role of providing housing only for low-income households.

CHAPTER 1277

An act to amend Sections 70130 and 70135.5 of, and to add and repeal Section 68090.25 of, the Government Code, relating to courts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1985 Filed with Secretary of State September 30, 1985]

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

SECTION 1. Section 68090.25 is added to the Government Code, to read:

68090.25. (a) Notwithstanding the provisions of Section 68090, the board of supervisors of a county which did not adjust filing fees pursuant to former Section 68090.2 (as added by Chapter 194 of the Statutes of 1983) may by resolution adopted prior to October 1, 1985, fix the amounts to be charged as total filing fees in the courts within the county pursuant to Sections 26820.4, 26826, 26827, 72055, and 72056, and establish the components thereof, for the period October 1, 1985, to December 31, 1986. A copy of any such resolution shall be forwarded promptly to the Judicial Council.

(b) Notwithstanding the provisions of Sections 26820.8 and 72056.5, the adjustment for the two-year period covering calendar years 1985 and 1986 may exceed 6 percent per biennium 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, in no event shall the adjustment exceed 10 percent per biennium.

(c) This section shall remain in effect only until January 1, 1987, and as of such date is repealed.

SEC. 2. Section 70130 of the Government Code is amended to read:

70130. (a) In a county with a population of over 205,000 and not over 225,000 as determined by the 1970 federal decennial census, within which there is located a facility of the Department of Corrections of the State of California, each full-time official reporter shall receive a salary recommended by the superior court and approved by the board of supervisors.

Any appointee to an official reporter position shall be compensated at the first step and advance to each higher step upon completion of each year of service. Upon the recommendation of the superior court and approval of the board of supervisors, official reporters may be employed at or may be granted a special step increase to any step within the salary range on the basis of experience or qualifications.

(b) The compensation for each official reporter pro tempore shall be the equivalent of the daily wage of the third step in the salary range for full-time official reporters for each day he actually is on duty under order of the court.

(c) In addition to the compensation provided in this article, each full-time reporter of the superior court shall be entitled to, and shall receive, the same vacation, sick leave, and similar privileges and benefits as are now, or may hereafter be provided for the employees of the County of Marin, including the right to participate in any group, accident, health or life insurance plan adopted by the board of supervisors of the county.

(d) Until such time as the salaries of full-time official reporters and official reporters pro tempore are approved by the board of supervisors pursuant to subdivision (a), such reporters shall receive the salaries in effect immediately prior to the effective date of the amendments to this section enacted by the Legislature at its 1975–76 Regular Session.

SEC. 3. Section 70135.5 of the Government Code is amended to read:

70135.5. (a) In addition to any fee otherwise required, in civil cases that last longer than two judicial days, a fee equal to the full per diem rate for official reporters pro tempore shall be charged to the parties, on a pro rata basis, for the services of an official reporter for the third and each succeeding day a reporter is required.

(b) All parties shall deposit their pro rata share of such fees with the clerk at the beginning of the third and each successive day's court session.

(c) The fees required by subdivision (a) shall be taxed as costs in favor of any party paying the same and to whom costs are awarded by judgments of the court. Such fees shall be subject to the provisions of Section 6103 of the Government Code.

SEC. 4. 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. 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 provide for adequate filing fees, and to provide adequate law library funding and adequate court reporter services in Marin County, it is necessary that this act take effect immediately.

CHAPTER 1278

An act to amend Sections 8208, 8212, 8220, 8225, 8231, 8232, 8233, 8235, 8263, 8265, and 8288 of, to add Section 8276.7 to, and to repeal Section 89403 of, the Education Code, relating to child care and development programs.

[Approved by Governor September 30, 1985 Filed with Secretary of State September 30, 1985]

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

SECTION 1. The Legislature hereby finds and declares that child care and development programs have experienced rapid growth over the past decade, and that this growth has been accompanied by a corresponding increase in statutory and regulatory requirements.

It is the intent of the Legislature in enacting this act to provide for the review and clarification of these requirements, and to promote and support the activities of the State Department of Education with respect to program and fiscal accountability and increased administrative efficiency.

SEC. 2. This act shall be known and may be referred to as the Child Development Reform Act of 1985.

SEC. 3. Section 8208 of the Education Code is amended to read:

8208. As used in this chapter:

(a) "Assigned reimbursement rate" is that rate established by the contract with the agency and is derived by dividing the total dollar amount of the contract by the minimum child day enrollment level of service required.

(b) "Alternative payments" includes payments which are made by one child care agency to another agency or child care provider for the provision of child care and development services, and payments which are made by an agency to a parent for the parent's purchase of child care and development services.

(c) "Applicant or contracting agency" means a school district, community college district, college or university, county superintendent of schools, county, city, public agency, private non-tax-exempt agency, private tax-exempt agency, or other entity

which is authorized to establish, maintain, or operate services pursuant to this chapter. Private agencies and parent cooperatives, duly licensed by law, shall receive the same consideration as any other authorized entity with no loss of parental decisionmaking prerogatives as consistent with the provisions of this chapter.

(d) "Attendance" means the number of children present at a child care and development facility. "Attendance," for the purposes of reimbursement, includes excused absences by children because of illness, quarantine, illness or quarantine of their parent, family emergency, or to spend time with a parent or other relative as required by a court of law or which is clearly in the best interest of the child.

(e) "Capital outlay" means the amount paid for the renovation and repair of child care and development facilities to comply with state and local health and safety standards, and the amount paid for the state purchase of relocatable child care and development facilities for lease to qualifying contracting agencies.

(f) "Caregiver" means a person who provides direct care, supervision, and guidance to children in a child care and development facility.

(g) "Child care and development facility" means any residence or building or part thereof in which child care and development services are provided.

(h) "Child care and development programs" means those programs which offer a full range of services for children from infancy to 14 years of age, for any part of a day, by a public or private agency, in centers and family child care homes. These programs include, but are not limited to, all of the following:

(1) Campus child care and development.
(2) General child care and development.
(3) Intergenerational child care and development.
(4) Migrant child care and development.
(5) School-age parenting and infant development.
(6) State preschool.
(7) Pregnant minors.
(8) Resource and referral.
(9) Severely handicapped.
(10) Family day care.
(11) Alternative payment.
(12) Child abuse protection and prevention services.

(i) "Child care and development services" means those services designed to meet a wide variety of needs of children and their families, while their parents or guardians are working, in training, seeking employment, incapacitated, or in need of respite. These services include direct care and supervision, resource and referral programs, and alternative payment arrangements.

(j) "Children at risk of abuse, neglect, or exploitation" means children who are identified as such in a written referral from a legal, medical, or social service agency.

(k) "Children with exceptional needs" means children who are mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, other health impaired, deaf-blind, multihandicapped, severely handicapped, or children with specific learning disabilities, who require the special attention of adults in a child care setting. Children with exceptional needs who are between the ages of birth and 21 years, inclusive, shall also meet the criteria for that age group specified in Section 56026.

(*l*) "Children with special needs" includes infants and toddlers to the age of two years and nine months; limited-English-proficient children; children with exceptional needs; limited-English proficient handicapped children; and children at risk of neglect, abuse, or exploitation.

(m) "Closedown costs" means reimbursements for all approved activities associated with the closing of operations at the end of each growing season for migrant child development programs only.

(n) "Cost" includes, but is not limited to, expenditures that are related to he operation of child development programs. "Cost" may include a reasonable amount for state and local contributions to employee benefits, including approved retirement programs, agency administration, and any other reasonable program operational costs.

(o) "Elementary school," as contained in Section 425 of Title 20 of the United States Code (the National Defense Education Act of 1958, Public Law 85-864, as amended), includes early childhood education programs and all child development programs, for the purpose of the cancellation provisions of loans to students in institutions of higher learning.

(p) "Severely handicapped children" means children under the age of six years who need intensive special education services and who satisfy the applicable requirements of Section 56026 or 56030.5, and children from age 6 to 21 years, inclusive, who meet the criteria established by Section 56030.5. These children, ages birth to 21 years, inclusive, may be assessed by public school special education staff, regional center staff, or another appropriately licensed clinical professional.

(q) "Health services" includes, but is not limited to, all of the following:

(1) Referral, whenever possible, to appropriate health care providers able to provide continuity of medical care.

(2) Health screening and health treatment, including a full range of immunization recorded on the appropriate state immunization form to the extent provided by the Medi-Cal Act (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code) and the Child Health and Disability Prevention Program (Article 3.4 (commencing with Section 320) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code), but only to the extent that ongoing care cannot be obtained utilizing

community resources.

(3) Health education and training for children, parents, staff, and providers.

(4) Followup treatment through referral to appropriate health care agencies or individual health care professionals.

(r) "Higher educational institutions" means the Regents of the University of California, the Trustees of the California State University, the Board of Governors of the California Community Colleges, and the governing bodies of any accredited private nonprofit institution of postsecondary education.

(s) "Intergenerational staff" means persons of various generations.

(t) "Limited-English-proficient children" means children who are unable to benefit fully from an English-only child care and development program as a result of either of the following:

(1) Having used a language other than English when they first began to speak.

(2) Having a language other than English predominantly or exclusively spoken at home.

(u) "Parent" means any person living with a child who has responsibility for the care and welfare of the child.

(v) A "proprietary child care agency" means an organization or facility providing child care, which is operated for profit.

(w) "Resource and referral programs" means programs that provide services to families seeking child care and services to the local child care community, as specified in Article 2 (commencing with Section 8210).

(x) "Child abuse protection and prevention services" means short-term respite child care provided for the prevention of child abuse, neglect, exploitation, or family crises. The care shall assist families whose children have been identified through written referral from a legal, medical, social service, or other community agency as being abused, neglected, or exploited, or at risk of being neglected, abused, or exploited. Children shall be identified as being in need of child abuse protection and prevention services by professionals qualified to evaluate child abuse, neglect, exploitation, and family crises. Each family shall be provided a written referral documenting the need for child abuse protection and prevention services by a legal, medical, social service, or other community agency. Child care shall be provided for less than 24 hours per day in child care centers, treatment centers for abusive parents, therapeutic nurseries, family day child care homes, or in the child's home.

(y) "Standard reimbursement rate" means that rate established by the Superintendent of Public Instruction pursuant to Section 8265.

(z) "Startup costs" means those expenses an agency incurs in the process of opening a new or additional facility prior to the full enrollment of children.

(aa) "State preschool services" means part-day educational

programs for low-income or otherwise disadvantaged prekindergarten-age children.

(bb) "Support services" means those services which, when combined with child care and development services, help promote the healthy physical, mental, social, and emotional growth of children. Support services include, but are not limited to: protective services, parent training, provider and staff training, transportation, parent and child counseling, child development resource and referral services, and child placement counseling.

(cc) "Teacher" means a person with the appropriate certificate who provides program supervision and instruction which includes the supervision of a number of aides, volunteers, and groups of children.

(dd) "Workday" means the time that the parent requires temporary care for a child for any of the following reasons:

(1) To undertake training in preparation for a job.

(2) To undertake or retain a job.

(3) To undertake other activities which are essential to maintaining or improving the social and economic function of the family, are beneficial to the community, or are required because of health problems in the family.

(ee) "Site supervisor" means a person who, regardless of his or her title, has operational program responsibility for a child care and development program at a single site. Effective July 1, 1987, these persons shall hold a children's center teaching permit and shall have completed not less than six units of administration and supervision coursework in child development. The Superintendent of Public Instruction may grant waivers of the provisions of this section that become effective July 1, 1987, where the existence of compelling need is appropriately documented.

(ff) "Program director" means a person who, regardless of his or her title has administrative and programmatic responsibility for a child care and development program operated at two or more sites. These persons shall hold a children's center supervision permit, or its equivalent, as specified in Section 8360, or shall demonstrate progress in meeting these requirements by June of 1990 and shall have been employed as a program director as of January 1, 1986.

SEC. 4. Section 8212 of the Education Code is amended to read:

8212. For purposes of this article, child care resource and referral programs, established to serve a defined geographic area, shall provide the following services:

(a) Identification of the full range of existing child care services through information provided by all relevant public and private agencies in the areas of service, and the development of a resource file of those services which shall be maintained and updated at least quarterly. These services shall include, but not be limited to, family day care homes, public and private day care programs, full-time and part-time programs, and infant, preschool, and extended care programs.

The resource file shall include, but not be limited to, the following information:

(1) Type of program.

(2) Hours of service.

(3) Ages of children served.

(4) Fees and eligibility for services.

(5) Significant program information.

(b) Establishment of a referral process which responds to parental need for information and which is provided with full recognition of the confidentiality rights of parents. Resource and referral programs shall make referrals to licensed child care facilities. Referrals shall be made to unlicensed care facilities only if there is no requirement that the facility be licensed. The referral process shall afford parents maximum access to all referral information. This access shall include, but is not limited to, telephone referrals to be made available for at least 30 hours per week as part of a full week of operation. Every effort shall be made to reach all parents within the defined geographic area, including, but not limited to, any of the following:

(1) Toll-free telephone lines.

(2) Office space convenient to parents and providers.

(3) Referrals in languages which are spoken in the community.

Each child care resource and referral agency shall publicize its services through all available media sources, agencies, and other appropriate methods.

(c) Maintenance of ongoing documentation of requests for service tabulated through the internal referral process. The following documentation of requests for service shall be maintained by all child care resource and referral agencies:

(1) Number of calls and contacts to the child care information and referral agency or component.

(2) Ages of children served.

(3) Time category of child care request for each child.

(4) Special time category, such as nights, weekends, and swing shift.

(5) Reason that the child care is needed.

This information shall be maintained in such a manner that it is easily accessible for dissemination purposes.

(d) Provision of technical assistance to existing and potential providers of all types of child care services. This assistance shall include, but not be limited to:

(1) Information on all aspects of initiating new child care services including, but not limited to, licensing, zoning, program and budget development, and assistance in finding such information from other sources.

(2) Information and resources which shall help existing child care services providers to maximize their ability to serve the children and parents of their community.

(3) Dissemination of information on current public issues affecting the local and state delivery of child care services.

(4) Facilitation of communication between existing child care and child-related services providers in the community served.

Services prescribed by this section shall be provided in order to maximize parental choice in the selection of child care to facilitate the maintenance and development of child care services and resources.

SEC. 5. Section 8220 of the Education Code is amended to read:

8220. Upon the approval of the State Department of Education, funds appropriated for the purposes of this chapter may be used for alternative payment programs to allow for maximum parental choice. Various methods of reimbursement for parental costs for child care may be utilized. All payment arrangements shall conform to the eligibility criteria and the parent fee schedule established pursuant to Sections 8263 and 8265.

To provide for maximum parent choice, alternative payment programs may include the following:

(a) A subsidy that follows the family from one provider to another within a given alternative payment program.

(b) Choices, whenever possible, among hours of service including before and after school, evenings, weekends, and split shifts.

(c) Child care and development services according to parental choice, including use of family day care homes, general center based programs, and state preschool and other state-funded programs to the extent that those programs exist in the general service area and are in conformity with the purposes and applicable laws for which those programs were established.

SEC. 6. Section 8225 of the Education Code is amended to read:

8225. (a) Notwithstanding any provision of law to the contrary, higher educational institutions may establish and maintain child development programs on or near their respective campuses. Those higher educational institutions under contract with the State Department of Education for child care and development services pursuant to this chapter shall be subject to the rules and regulations adopted by the Superintendent of Public Instruction.

(b) Children of students of each campus operating a child development program shall have first priority for service in that program, in accordance with the priorities established in subdivision (b) of Section 8263.

(c) The higher educational institutions may institutionalize child development programs on their respective campuses for the purpose of incorporating child development programs into the missions and functions of the respective campuses.

(d) The Superintendent of Public Instruction, in cooperation with higher educational institutions, shall establish rules and regulations governing programs operated pursuant to this section.

(e) It is the intention of the Legislature that a consortium composed of higher educational institutions be established by the institutions to improve communication and cooperation and to advise and assist the Superintendent of Public Instruction in the

development of rules and regulations and policies and procedures affecting child care and development programs. The Superintendent of Public Instruction in cooperation with the consortium shall be responsible for ongoing communication with and dissemination of information to all campus child care and development agencies under contract with the State Department of Education.

SEC. 7. Section 8231 of the Education Code is amended to read:

8231. (a) For the purpose of this article, a "migrant agricultural worker family" means a family that has earned at least 50 percent of its total gross income from employment in fishing, agriculture, or agriculturally related work during the 12-month period immediately preceding the date of application for child care and development services.

(b) Children of migrant agricultural worker families shall be enrolled in child development programs on the basis of the following priorities:

(1) The family moves from place to place.

(2) The family has qualified under paragraph (1) within the past five years and is currently dependent for its income on agricultural employment, but is currently settled near agricultural areas.

(3) The family resides in a rural agricultural area and is dependent upon seasonal agricultural work.

(4) Eligibility and priority for services for the federally funded Migrant Child Development Program shall be in accordance with the applicable federal regulations.

SEC. 8. Section 8232 of the Education Code is amended to read:

8232. The superintendent shall develop appropriate migrant child care and development programs, quality indicators, including those prescribed in subdivisions (a) to (h), inclusive, and (k) to (m), inclusive, of Section 8203, and the following:

(a) Social services.

(1) Bilingual liaison between migrant parents and the center or family child care home, or both.

(2) Liaison between the agency and the relevant community agencies and organizations, including health and social services.

(3) Identification and documentation of family needs and followup referrals as appropriate.

(b) Staffing.

(1) Bilingual health personnel shall be available to each program site of a migrant child care and development agency.

(2) Professional and nonprofessional staff shall reflect the linguistic and cultural background of the children being served.

(3) Whenever possible, migrants will be recruited, trained, and hired in child care and development programs. Documentation of training and career ladder opportunities and of recruitment and hiring efforts shall be provided to the Department of Education. Staff training shall include principles and practices of child care and development for the age groups of children being served.

(c) Health services in migrant child care and development programs shall include health and dental screening and followup treatment. Health records for all migrant children shall follow the child.

SEC. 9. Section 8233 of the Education Code is amended to read:

8233. (a) Cost for migrant programs may exceed the standard reimbursement rate established by the Superintendent of Public Instruction. In no case shall the reimbursement exceed the cost of the program. State-funded programs may be eligible for Chapter I federal funds to supplement state funding. These funds shall not be contingent upon the provision of additional child days or enrollment.

(b) The Superintendent of Public Instruction shall annually reimburse seasonal migrant child care and development agencies for approvable startup and closedown costs. Reimbursement for both startup and closedown costs shall not exceed 15 percent of each such agency's total contract amount.

Seasonal migrant child care and development agencies shall submit reimbursement claims for startup costs with their first monthly reports, and reimbursement claims for closedown costs with their final reports.

SEC. 10. Section 8235 of the Education Code is amended to read.

8235. The Superintendent of Public Instruction shall administer all state preschool programs. They shall include, but not be limited to, part-day and preschool appropriate activities for prekindergarten children three to five years of age in educational development, health services, social services, nutritional services, parent education and parent participation, evaluation, and staff development. Preschool programs for which federal reimbursement is not available shall be funded as prescribed by the Legislature in the Budget Act, and unless otherwise specified by the Legislature, shall not utilize federal funds made available through Title XX of the Social Security Act.

Federal Headstart funds providing services to families receiving state preschool services shall be deemed nonrestricted funds.

Priority for receiving state preschool services shall be given to low income families who meet the eligibility standards as established by the Superintendent of Public Instruction.

Reimbursement for state preschool programs shall be on a per capita basis as determined by the Superintendent of Public Instruction.

SEC. 11. Section 8263 of the Education Code is amended to read:

8263. (a) The Superintendent of Public Instruction shall adopt rules and regulations on eligibility, enrollment, and priority of services needed to implement this chapter. In order to be eligible for federal and state subsidized child development services, families shall meet at least one requirement in each of the following areas:

(1) A family shall be (A) a current aid recipient, (B) income eligible, or (C) one whose children are recipients of protective services, or whose children have been identified as being abused,

neglected, or exploited, or at risk of being abused, neglected, or exploited.

(2) A family shall need the child care service because the child is identified by a legal, medical, or social service agency as being (A) a recipient of protective services, (B) being neglected, abused, or exploited, or at risk of neglect, abuse, or exploitation, or (C) having a medical or psychiatric special need which cannot be met without provision of child day care, or the parents are (i) engaged in vocational training leading directly to a recognized trade, paraprofession, or profession, (ii) employed or seeking employment, or (iii) incapacitated, including a medical or psychiatric special need which cannot be met without provision of child day care.

(b) Priority for state and federally subsidized child development services shall be as follows:

(1) First priority shall be given to recipients of child protective services for children who are neglected or abused, or at risk of being neglected or abused, upon written referral from a legal, medical, or social service agency. When an agency is unable to enroll a child in the first priority category, the agency shall refer the family to local resource and referral services to locate services for the child.

(2) Second priority shall be equally given to eligible families, regardless of the number of parents in the home, who are income eligible. Within this priority, families with the lowest gross monthly income in relation to family size, as determined by a schedule adopted by the Superintendent of Public Instruction, shall be admitted first. When two or more families are in the same priority in relation to income, the family which has been on the waiting list for the longest amount of time shall be admitted first. For purposes of determining order of admission, the grants of public assistance recipients shall be counted as income.

(3) The superintendent shall set criteria for and may grant specific waivers of the priorities established in this subdivision for agencies which wish to serve specific populations, such as handicapped children or children of prisoners. These new waivers shall not include proposals to avoid appropriate fee schedules or admit ineligible families, but may include proposals to accept members of special populations in other than strict income order, as long as appropriate fees are paid.

(c) A physical examination and evaluation, including age-appropriate immunization, shall be required prior to, or within six weeks of, enrollment. No standard, rule, or regulation shall require medical examination or immunization for admission to a child care and development program of a child whose parent or guardian files a letter with the governing board of the child care and development program stating that the medical examination or immunization is contrary to his or her religious beliefs, or provide for the exclusion of a child from the program because of a parent or guardian having filed the letter. However, whenever there is good cause to believe that a child is suffering from a recognized contagious

or infectious disease, the child shall be temporarily excluded from the program until the governing board of the child care and development program is satisfied that any contagious or infectious disease does not exist.

(d) Regulations formulated and promulgated pursuant to this section shall include the recommendations of the State Department of Health Services relative to health care screening and the provision of health care services. The Superintendent of Public Instruction shall seek the advice and assistance of these health authorities in situations where service under this chapter includes or requires care of ill or disabled children.

(e) The Superintendent of Public Instruction shall establish a fee schedule for families utilizing child care and development services pursuant to this chapter. No fees shall be assessed for families whose children are enrolled in the state preschool program.

(f) The superintendent shall establish guidelines for the collection of employer sponsored child care benefit payments from any parent whose child receives subsidized child care and development services. These guidelines shall provide for the collection of the full amount of the benefit payment, but not to exceed the actual cost of child care and development services provided, notwithstanding the applicable fee based on the fee schedule.

(g) The Superintendent of Public Instruction shall establish guidelines according to which the director or a duly authorized representative of the child care and development program will certify children as eligible for state reimbursement pursuant to this section.

(h) No public funds shall be paid directly or indirectly to any agency which does not pay at least the minimum wage to each of its employees.

SEC. 12. Section 8265 of the Education Code is amended to read:

8265. (a) The Superintendent of Public Instruction shall implement a plan which establishes reasonable standards and assigned reimbursement rates, which vary with the length of the program year and the hours of service.

Reimbursement shall not exceed actual program costs which are reasonable and necessary, and which are within the maximum reimbursable amount. Parent fees shall be deducted from these costs, except when the contractor provides services to eligible children beyond the minimum service required by the contract. In that case, parent fees may be used to pay reasonable and necessary costs of providing additional services.

When establishing standards and assigned reimbursement rates, the Superintendent of Public Instruction shall confer with applicant agencies.

The reimbursement system, including standards and rates, shall be submitted to the Joint Legislative Budget Committee.

The Superintendent of Public Instruction may establish any regulations he or she deems advisable concerning conditions of

service and hours of enrollment for children in the programs.

(b) The standard reimbursement rate shall be three thousand five hundred twenty-three dollars ($3,523) per unit of average daily enrollment for a 250-day year, increased by the cost-of-living adjustment granted by the Legislature beginning July 1, 1980.

(c) The plan shall require agencies having an assigned reimbursement rate above the current year standard reimbursement rate to reduce costs on an incremental basis to achieve the standard reimbursement rate.

(d) The plan shall provide for adjusting reimbursement on a case-by-case basis, in order to maintain service levels for agencies currently reimbursed at a rate less than the standard reimbursement rate. Assigned reimbursement rates shall be increased only on the basis of one or more of the following:

(1) Loss of program resources from other sources.

(2) Need of an agency to pay the same child care rates as those prevailing in the local community.

(3) Increased costs directly attributable to new or different regulations.

(4) Documented increased costs necessary to maintain the prior year's level of service and ensure the continuation of threatened programs.

Child care agencies funded at the lowest rates shall be given first priority for increases.

(e) The plan shall provide for expansion of child development programs at no more than the standard reimbursement rate for that fiscal year.

(f) The Superintendent of Public Instruction may reduce the percentage of reduction for any public agency:

(1) Which is currently serving more than 400 children; or

(2) Which has in effect a collective bargaining agreement; or

(3) For which other extenuating circumstances apply as determined by the Superintendent of Public Instruction.

SEC. 13. Section 8276.7 is added to the Education Code, to read:

8276.7. Unless specifically exempted by the Legislature, the administrative cost for all state-funded child care and development programs and all federal programs administered by the state shall not exceed 15 percent of the funds provided for those programs. Eighty-five percent of these funds shall be used to provide direct services in accordance with rules and regulations, or contractual funding terms and conditions prescribed by the Superintendent of Public Instruction.

SEC. 14. Section 8288 of the Education Code is amended to read:

8288. Until the Superintendent of Public Instruction promulgates regulations for center-based programs establishing staffing ratios, the following staffing ratios shall apply:

(a) Infants, 0 to 2 years old—1:3 adult-child ratio, 1:18 teacher-child ratio.

(b) Infants and toddlers, 0 to 2 years old—1:4 adult-child ratio, 1:16

teacher-child ratio.

(c) Children 3 to 6 years old—1:8 adult-child ratio, 1:24 teacher-child ratio.

(d) Children 6 to 10 years old—1:14 adult-child ratio, 1:28 teacher-child ratio.

(e) Children 10 to 14 years old—1:18 adult-child ratio, 1:36 teacher-child ratio.

(f) Whenever groups of children of varying ages are commingled, the teacher and adult ratios shall be proportionate and appropriate to the ages and groups of children.

(g) Within 60 days of the effective date of this section, the Superintendent of Public Instruction shall establish a timetable for the promulgation of regulations of staffing ratios, and shall promulgate the regulations within an 18-month period thereafter.

SEC. 15. Section 89403 of the Education Code is repealed.

CHAPTER 1279

An act to add Sections 1942.3 and 1942.4 to the Civil Code, to amend Section 1176 of the Code of Civil Procedure, and to amend Sections 17959.4 and 17980 of the Health and Safety Code, relating to remedies.

[Approved by Governor September 30, 1985 Filed with Secretary of State September 30, 1985]

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

SECTION 1. Section 1942.3 is added to the Civil Code, to read:

1942.3. (a) In any unlawful detainer action by the landlord to recover possession from a tenant, a rebuttable presumption affecting the burden of producing evidence that the landlord has breached the habitability requirements in Section 1941 is created if all of the following conditions exist:

(1) The dwelling substantially lacks any of the affirmative standard characteristics listed in Section 1941.1.

(2) A public officer or employee who is responsible for the enforcement of any housing law has notified the landlord, or an agent of the landlord, in a written notice issued after inspection of the premises which informs the landlord of his or her obligations to abate the nuisance or repair the substandard conditions.

(3) The conditions have existed and have not been abated 60 days beyond the date of issuance of the notice specified in paragraph (2) and the delay is without good cause.

(4) The conditions were not caused by an act or omission of the tenant or lessee in violation of Section 1929 or 1941.2.

(b) The presumption specified in subdivision (a) does not arise unless all of the conditions set forth therein are proven, but failure

to so establish the presumption shall not otherwise affect the right of the tenant to raise and pursue any defense based on the landlord's breach of the implied warranty of habitability.

(c) The presumption provided in this section shall apply only to rental agreements or leases entered into or renewed on or after January 1, 1986.

SEC. 2. Section 1942.4 is added to the Civil Code, to read:

1942.4. (a) Any landlord who demands or collects rent when all of the following conditions exist is liable to the tenant or lessee for the actual damages sustained by the tenant or lessee and special damages in an amount not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000):

(1) The rental dwelling substantially lacks any of the affirmative standard characteristics listed in Section 1941.1.

(2) A public officer or employee who is responsible for the enforcement of any housing law has notified the landlord, or an agent of the landlord, in a written notice issued after inspection of the premises which informs the landlord of his or her obligations to abate the nuisance or repair the substandard conditions.

(3) The conditions have existed and have not been abated 60 days beyond the date of issuance of the notice specified in paragraph (2) and the delay is without good cause.

(4) The conditions were not caused by an act or omission of the tenant or lessee in violation of Section 1929 or 1941.2.

(b) In addition to recovery of allowable costs of suit, the prevailing party shall be entitled to recovery of reasonable attorney's fees in an amount fixed by the court.

(c) The tenant or lessee shall be under no obligation to undertake any other remedy prior to exercising his or her rights under this section.

(d) Any action under this section may be maintained in small claims court if the actual or special damages claimed are within the jurisdictional amount specified in Section 116.2 of the Code of Civil Procedure.

(e) The remedy provided by this section applies only to rental agreements or leases entered into or renewed on or after January 1, 1986, and may be utilized in addition to any other remedy provided by this chapter, the rental agreement, lease, or other applicable statutory or common law.

SEC. 3. Section 1176 of the Code of Civil Procedure is amended to read:

1176. (a) An appeal taken by the defendant shall not automatically stay proceedings upon the judgment. Petition for stay of the judgment pending appeal shall first be directed to the judge before whom it was rendered. Stay of judgment shall be granted when the court finds that the moving party will suffer extreme hardship in the absence of a stay and that the nonmoving party will not be irreparably injured by its issuance. If the stay is denied by the trial court, the defendant may forthwith file a petition for an

extraordinary writ with the appropriate appeals court. If the trial or appellate court stays enforcement of the judgment, the court may condition the stay on whatever conditions the court deems just, but in any case it shall order the payment of the reasonable monthly rental value to the court monthly in advance as rent would otherwise become due as a condition of issuing the stay of enforcement. As used in this subdivision, "reasonable rental value" means the contract rent unless the rental value has been modified by the trial court in which case that modified rental value shall be used.

(b) A new cause of action on the same agreement for the rental of real property shall not be barred because of an appeal by any party.

SEC. 4. Section 17959.4 of the Health and Safety Code is amended to read:

17959.4. The housing appeals board may, in cases of extreme hardship to owner-occupants or tenants of dwellings, provide for deferral of the effective date of orders of abatement. Any deferral of the effective date of an order of abatement under this section shall terminate upon any sale or transfer of the dwelling by the owner-occupant but shall not terminate upon the sale or transfer of the dwelling if the dwelling is occupied by a tenant other than the owner-occupant.

SEC. 5. Section 17980 of the Health and Safety Code is amended to read:

17980. (a) If any building is constructed, altered, converted, or maintained in violation of any provision of, or of any order or notice giving a reasonable time to correct that violation issued by an enforcement agency pursuant to, this part, the building standards published in the State Building Standards Code, or other rules and regulations adopted pursuant to this part, or if a nuisance exists in any building or upon the lot on which it is situated, the enforcement agency shall, after 30 days' notice to abate the nuisance, institute any appropriate action or proceeding to prevent, restrain, correct, or abate the violation or nuisance.

(b) Whenever the enforcement agency has inspected or caused to be inspected any building and has determined that the building is a substandard building, the enforcement agency shall commence proceedings to abate the violation by repair, rehabilitation, vacation, or demolition of the building. The enforcement agency shall not require the vacating of a residential building unless it concurrently requires expeditious demolition or repair to comply with this part, the building standards published in the State Building Standards Code, or other rules and regulations adopted pursuant to this part. The owner shall have the choice of repairing or demolishing. However, if the owner chooses to repair, the enforcement agency shall require that the building be brought into compliance according to a reasonable and feasible schedule for expeditious repair. The enforcement agency may require vacation and demolition or may itself vacate the building, repair, demolish, or institute any other

appropriate action or proceeding, if any of the following occur:

(1) The repair work is not done as scheduled.

(2) The owner does not make a timely choice of repair or demolition.

(3) The owner selects an option which cannot be completed within a reasonable period of time, as determined by the department, for any reason, including, but not limited to, an outstanding judicial or administrative order.

In deciding whether to require vacation of the building or to repair as necessary, the enforcement agency shall give preference to the repair of the building whenever it is economically feasible to do so, without having to repair more than 75 percent of the dwelling, as determined by the enforcement agency, and shall give full consideration to the needs for housing as expressed in the local jurisdiction's housing element.

(c) Notwithstanding subdivision (b) and notwithstanding local ordinances, tenants in a residential building shall be provided notice of any violation described in subdivision (a) which affects the health and safety of the occupants and which violates Section 1941.1 of the Civil Code, an order of the code enforcement agency issued after inspection of the premises declaring the dwelling to be substandard, the enforcement agency's decision to repair or demolish, or the issuance of a building or demolition permit following the abatement order of an enforcement agency.

The notice may be provided either by first-class mail to each affected residential unit, or by posting a copy of the notice in a prominent place on the affected residential unit at the discretion of the enforcement agency.

(d) All notices issued by the enforcement agency to correct violations or to abate nuisances shall contain a provision notifying the owner that, in accordance with Sections 17274 and 24436.5 of the Revenue and Taxation Code, a tax deduction may not be allowed for interest, taxes, depreciation, or amortization paid or incurred in the taxable year.

(e) The enforcement agency may charge the owner of the building for its postage or mileage cost for sending or posting the notices required to be given by this section.

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 1280

An act to add Sections 18990 and 19141.1 to the Government Code, relating to state employees.

[Approved by Governor September 30, 1985 Filed with Secretary of State September 30, 1985]

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

SECTION 1. Section 18990 is added to the Government Code, to read:

18990. (a) Notwithstanding any other provision of law or rule, persons employed by the Legislature for two or more consecutive years with no mandatory civil service return right shall be eligible to apply for promotional civil service examinations including examinations for career executive assignments for which they meet the minimum qualifications as prescribed by the class specification. Persons receiving passing scores shall have their names placed on promotional lists resulting from these examinations or otherwise gain eligibility for appointment. In evaluating minimum qualifications, related legislative experience shall be considered state civil service experience in a class deemed comparable by the State Personnel Board, based on the duties and responsibilities assigned.

(b) In cases where promotional examinations are given by more than one department for the same classification, the employee shall select one department in which to compete. Once this selection is made, it cannot be changed for the duration of the promotional list established from the examination in which the employee participated. Employees may transfer list eligibility between departments in the same manner as provided for civil service employees.

(c) Employees who meet the requirements of this section and resign from the employment of the Legislature shall have the same rights and eligibility to take promotional civil service examinations and maintain promotional list eligibility as is provided to permanent civil service employees who resign from civil service.

(d) Notwithstanding subdivision (c), this section shall also apply to former employees of the Legislature with at least two or more consecutive years of service who terminated their employment with the Legislature not more than three years prior to January 1, 1986.

SEC. 2. Section 19141.1 is added to the Government Code, to read:

19141.1. (a) This section applies only to a permanent employee, or an employee who previously had permanent status, and who has a reinstatement right pursuant to Section 19141. The State Personnel Board may adopt rules to implement this section.

(b) Within four years of the termination of an appointment in an exempt position, either by the employee or the appointing power, an

employee who has completed a minimum of five years of state service experience and at least one year but less than three years of exempt service shall be given an opportunity upon request to obtain civil service appointment eligibility, through a deferred examination, for any position offered by any appointing power in any class for which a current eligible list exists and which has a salary range up to two steps higher than the employee's former position. If the employee has three or more years of exempt service, the opportunity shall be provided for any class at least two salary steps below the employee's exempt salary level.

(c) At the termination of an exempt appointment, either by the employee or the appointing power, on or after January 1, 1987, an employee who has at least 10 years of state service including five years of civil service experience and at least three consecutive years of exempt service under a single appointing power and who requests reinstatement in writing within 10 days of the termination, shall be reinstated upon request to (1) his or her former position or (2) any vacant position for which the employee has civil service eligibility under the appointing power where the three years of service were completed and which is at least two salary steps below the employee's exempt salary level. In the absence of current list eligibility, an employee shall be entitled to a deferred examination for placement on a current eligible list for classes meeting the mandatory reinstatement criteria. If the employee obtains civil service appointment eligibility at any time within two years of the termination of the exempt appointment, and a vacant position in the appropriate class is not available, the employee's name shall be placed on the appointing power's departmental or subdivisional reemployment for any classes and locations which would satisfy the employee's reinstatement request. Departmental or subdivisional reemployment list eligibility granted under this section shall not result in placement on any general reemployment list.

If an employee cannot be placed in a vacant position pursuant to this section, the employee shall be reinstated to his or her former position.

CHAPTER 1281

An act to amend Sections 7028.10, 7028.11, 7099, and 7152 of the Business and Professions Code, relating to contractors.

[Approved by Governor September 30, 1985 Filed with Secretary of State September 30, 1985]

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

SECTION 1. Section 7028.10 of the Business and Professions Code is amended to read:

7028.10. Any person served with a citation under Section 7028.7 may appeal to the registrar within 15 working days after service of the citation with respect to violations alleged, scope of the order of abatement, or amount of civil penalty assessed.

SEC. 2. Section 7028.11 of the Business and Professions Code is amended to read:

7028.11. If within 15 working days after service of the citation, the person cited fails to notify the registrar that he or she intends to appeal the citation, the citation shall be deemed a final order of the registrar and not subject to review by any court or agency. The 15-day period may be extended by the registrar for good cause.

SEC. 3. Section 7099 of the Business and Professions Code is amended to read:

7099. If, upon investigation, the registrar has probable cause to believe that a licensee, or an applicant for a license under this chapter, has violated provisions of this chapter which are grounds for revocation or suspension, he may, in lieu of proceeding pursuant to this article, issue a citation to such licensee. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of this chapter alleged to have been violated. In addition, each citation may contain an order of correction fixing a reasonable time for correction of the violation or an order, against the licensee only, for payment of a specified sum to an injured party in lieu of correction, and may contain an assessment of a civil penalty.

SEC. 4. Section 7152 of the Business and Professions Code is amended to read:

7152. (a) "Home improvement salesperson" is a person employed by a contractor licensed under this chapter to solicit, sell, negotiate or execute contracts for home improvements, for the sale, installation or furnishing of home improvement goods or services, or swimming pool contracts subject to Section 7167.

(b) The following shall not be required to be registered as home improvement salespersons:

(1) An officer of record of a corporation licensed pursuant to this chapter.

(2) A qualifying person, as defined in Section 7068.

(3) A salesperson whose sales are all made pursuant to negotiations between the parties if the negotiations are initiated by the prospective buyer at or with a general merchandise retail establishment that operates from a fixed location where goods or services are offered for sale.

(4) A person who contacts the prospective buyer for the exclusive purpose of scheduling appointments for a registered home improvement salesperson.

(5) A bona fide service repairperson who is in the employ of a licensed contractor and whose repair or service call is limited to the service, repair, or emergency repair initially requested by the buyer of the service.

CHAPTER 1282

An act to add Section 1085.5 to the Code of Civil Procedure, and to amend and repeal Section 14006 of, and to add and repeal Chapter 1.5 (commencing with Section 5051) of Part 1 of Division 4 of, the Food and Agricultural Code, and to amend and repeal Section 21080.5 of the Public Resources Code, relating to pest control.

[Approved by Governor September 30, 1985. Filed with Secretary of State September 30, 1985.]

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

SECTION 1. Section 1085.5 is added to the Code of Civil Procedure, to read:

1085.5. Notwithstanding this chapter, in any action or proceeding to attack, review, set aside, void, or annul the activity of the director under Chapter 1.5 (commencing with Section 5051) of Part 1 of Division 4, or under Division 5 (commencing with Section 9101), of the Food and Agricultural Code, the procedure for issuance of a writ of mandate shall be in accordance with Chapter 1.5 (commencing with Section 5051) of Part 1 of Division 4 of the Food and Agricultural Code.

SEC. 2. Chapter 1.5 (commencing with Section 5051) is added to Part 1 of Division 4 of the Food and Agricultural Code, to read:

CHAPTER 1.5. PEST CONTROL AND ERADICATION CHALLENGES

5051. Whenever the director exercises authority on a control or eradication project pursuant to this division or Division 5 (commencing with Section 9101), a written decision describing the proposed action shall be adopted and shall contain findings as to the need for the action, the statutory basis for that action, and notification that any action challenging the decision shall be brought within 30 days. The decision shall be a public record, available to the public upon request, shall be published in a newspaper of general circulation in the county, and shall be filed with the governing body of any affected city, county, or city and county in accordance with the procedures set forth in Section 21152 of the Public Resources Code. Any addition to or expansion of a declared treatment area shall also comply with the requirements of this section.

5052. Within 30 days after the filing of the written decision with the governing body of the affected city, county, or city and county as described in Section 5051, any person or local governmental agency within a declared treatment area may bring an action by way of mandamus challenging that decision in accordance with this chapter. Any person or local governmental agency in a new treatment area shall have 30 days to contest that inclusion from the date of inclusion. Lack of actual notice of the decision shall not be a defense or bar to dismissal for an untimely filing if the applicable

notice requirements of Section 5051 have been met.

5053. Any action or proceeding to attack, review, set aside, void, or annul the activity of the director under this division or Division 5 (commencing with Section 9101) shall be brought pursuant to Section 1085 of the Code of Civil Procedure. The court's inquiry shall extend only to whether there was a prejudicial abuse of discretion. An abuse of discretion shall be found if the decision was arbitrary or capricious or the director did not proceed in the manner required by law.

5054. It shall not be an abuse of discretion for the director, acting pursuant to statutory authority contained in this division or Division 5 (commencing with Section 9101), to use a material registered pursuant to Division 6 (commencing with Section 11401) or Division 7 (commencing with Section 12501), in a manner consistent with the registration, label restrictions, applicable regulations, and applicable provisions of federal law and in full compliance with all limitations, restrictions, or other criteria set forth in Divisions 5 (commencing with Section 9101), 6 (commencing with Section 11401), and 7 (commencing with Section 12501).

5056. The evidence considered by the court may include an administrative record prepared and submitted by the department, as well as such otherwise competent evidence as may be allowed by the court in its discretion. The court shall rule upon the admissibility of all evidence to which objections are lodged. The court shall not rely upon any declarations submitted by an expert witness pursuant to Article 1 (commencing with Section 720) of Chapter 3 of Division 6 of the Evidence Code or Chapter 1 (commencing with Section 800) of Division 7 of the Evidence Code where a request for production and cross-examination of the witness has been made and granted upon a showing of good cause. The court shall order the production of a witness in response to that request unless it finds that production is not feasible or the witness is unavailable or except in the interest of justice.

5057. In determining whether to grant a pretrial order staying the underlying activities which are the subject of the petition, or a continuance, the court shall balance the irreparable injury to the petitioner versus the irreparable injury to the ability of the director to carry out the program and whether the public interest will be adversely affected. The pretrail stay shall operate until the date of hearing, but in no case longer than 10 days, and shall expire thereafter unless a new stay is issued by the court.

5058. Where feasible, no hearing shall be set less than three days prior to the beginning of the activities which are the subject of the challenge. The complaint and supporting affidavits, declarations, and other evidence shall be filed and personally served no later than 10 days prior to the hearing, with responsive papers filed and personally served no later than five days prior to the hearing. Any reply shall be filed and personally served two days prior to the hearing, and shall not contain any new cause of action or new evidence unless it can

be established that the facts giving rise to the cause of action or new evidence was not available at the original filing. No additional material may be filed by the parties at the time of hearing, unless it can be established the material was not available at the time of the filing of the responsive or reply papers, no prejudice will result to the opposing party, or the court is able to continue the matter without impairing the public interest.

5061. The court shall enter judgment either commanding the director to set aside the order of decision or denying the writ. Where the judgment commands the order of decision be set aside, the court shall remand the matter to the director for reconsideration, but the judgment shall not limit or control in any way the discretion legally vested in the director. Where new evidence is presented which was not considered by the director in making the decision, and where that evidence is found by the court upon a showing of good cause to be material and could not reasonably have been presented to the director prior to the time the decision was made, the court may stay the proceedings and remand the matter to the director for consideration of the new evidence. The court may also stay the operation of the administrative order or decision pursuant to Section 5057. The court may stay the operation of the administrative order or decision pending judgment of the court or until the filing of a notice of appeal from the judgment, except that no stay shall be imposed or continued unless the court is satisfied it will not be detrimental to the public interest. Where the court makes such a finding, an appeal shall not operate as an automatic stay of the decision of the court.

5062. On appeal, the reviewing court shall not issue a stay or writ of supercedeas unless the moving party demonstrates either of the following:

(a) Probable success on the merits and the possibility of irreparable injury.

(b) Serious questions raised on appeal and the balance of the hardships is tipped sharply in favor of the moving party.

5063. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

5064. 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 14006 of the Food and Agricultural Code is amended to read:

14006. The regulations shall prescribe the time when, and the conditions under which, a restricted material may be used or possessed in different areas of the state, and may prohibit its use or possession in those areas. That usage shall be limited to those situations in which it is reasonably certain that no injury will result,

or no nonrestricted material or procedure is equally effective and practical. For purposes of this section, "reasonably certain" does not mean beyond a reasonable doubt. The regulations may provide that a restricted material shall be used only under permit of the commissioner or under the direct supervision of the commissioner, subject to any of the following limitations:

(a) In certain areas.

(b) Under certain conditions relating to safety.

(c) When used in excess of certain quantities or concentrations.

(d) When used in certain mixtures.

(e) In compliance with the industrial safety orders of the Department of Industrial Relations and any order of the director or commissioner.

(f) On agreement by the owner or person in possession of the property to be treated to comply with certain conditions.

(g) Any other limitation the director determines to be necessary to effectuate the purposes of this chapter.

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 14006 of the Food and Agricultural Code, as amended by Section 13.5 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. The Legislature hereby finds and declares the following:

(a) Agriculture is a major and essential component of California's economy.

(b) The proper, safe, and efficient use of pesticides is essential for the protection and production of agricultural commodities and for health protection.

(c) The enactment of Chapter 308 of the Statutes of 1978 created a functional equivalency program which provides for reasonable environmental review of that pesticide use.

(d) Exotic plant or animal pests pose a threat to the viability of agriculture and the health and safety of the people of this state.

(e) The Department of Food and Agriculture, along with county commissioners, are charged by law with the control or eradication, where feasible, of the exotic plant and animal pests.

(f) In so discharging their duties, the Director of Food and Agriculture and county commissioners must be free to employ such registered materials under federal or state law, as may be necessary, and preparation of an environmental impact report would be duplicative and unreasonable and a burden on the carrying out of those duties.

(g) The amendment of Section 21080.5 of the Public Resources Code contained in Section 4 of this act is necessary to clarify existing law and does not expand or diminish that law.

This section shall remain in effect only until January 1, 1988, and

as of that date is repealed, unless a later enacted statute is enacted before January 1, 1988, deletes or extends that date.

SEC. 4. Section 21080.5 of the Public Resources Code is amended to read:

21080.5. (a) When the regulatory program of a state agency, board, or commission requires a plan or other written documentation, containing environmental information and complying with the requirements of paragraph (3) of subdivision (d), to be submitted in support of any of the activities listed in subdivision (b), the plan or other written documentation may be submitted in lieu of the environmental impact report required by this division; provided, that the Secretary of the Resources Agency has certified the regulatory program pursuant to this section.

(b) This section shall apply only to regulatory programs or portions thereof which involve either of the following:

(1) The issuance to a person of a lease, permit, license, certificate, or other entitlement for use.

(2) The adoption or approval of standards, rules, regulations, or plans for use in the regulatory program.

(c) A regulatory program certified pursuant to this section is exempt from the provisions of Chapter 3 (commencing with Section 21100) and Chapter 4 (commencing with Section 21150) and Section 21167.

(d) In order to qualify for certification pursuant to this section, a regulatory program shall require utilization of an interdisciplinary approach which will ensure the integrated use of the natural and social sciences in decisionmaking and shall meet all of the following criteria:

(1) The enabling legislation of the regulatory program shall:

(i) Include protection of the environment among its principal purposes.

(ii) Contain authority for the administering agency to promulgate rules and regulations for the protection of the environment, guided by standards set forth in the enabling legislation.

(2) The rules and regulations adopted by the administering agency shall:

(i) Require that an activity will not be approved or adopted as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment.

(ii) Include guidelines for the orderly evaluation of proposed activities and the preparation of the plan or other written documentation in a manner consistent with the environmental protection purposes of the regulatory program.

(iii) Require the administering agency to consult with all public agencies which have jurisdiction, by law, with respect to the proposed activity.

(iv) Require that final action on the proposed activity include the written responses of the issuing authority to significant

environmental points raised during the evaluation process.

(v) Require the filing of a notice of the decision by the administering agency on the proposed activity with the Secretary of the Resources Agency. Those notices shall be available for public inspection, and a list of the notices shall be posted on a weekly basis in the office of the Resources Agency. Each list shall remain posted for a period of 30 days.

(vi) Require notice of the filing of the plan or other written documentation to be made to the public and to any person who requests, in writing, notification. The notification shall be made in a manner that will provide the public or any person requesting notification with sufficient time to review and comment on the filing.

(3) The plan or other written documentation required by the regulatory program shall:

(i) Include a description of the proposed activity with alternatives to the activity, and mitigation measures to minimize any significant adverse environmental impact.

(ii) Be available for a reasonable time for review and comment by other public agencies and the general public.

(e) The Secretary of the Resources Agency shall certify a regulatory program which the secretary determines meets all the qualifications for certification set forth in this section, and withdraw certification on determination that the regulatory program has been altered so that it no longer meets those qualifications. Certification and withdrawal of certification shall occur only after compliance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

In determining whether or not a regulatory program meets the qualifications for certification set forth in this section, the inquiry of the Secretary of the Resources Agency shall extend only to the question of whether the regulatory program meets the generic requirements of subdivision (d). The inquiry shall not extend to individual decisions to be reached under the regulatory program, including the nature of specific alternatives or mitigation measures which might be proposed to lessen any significant adverse environmental effects of the activity.

In the event that the Secretary of the Resources Agency determines that the regulatory program submitted for certification does not meet the qualifications for certification set forth in this section, the secretary shall adopt findings setting forth the reasons for the determination.

(f) After a regulatory program has been certified pursuant to this section, any proposed change in the program which could affect compliance with the qualifications for certification specified in subdivision (d) may be submitted to the Secretary of the Resources Agency for review and comment. The scope of the secretary's review shall extend only to the question of whether the regulatory program meets the generic requirements of subdivision (d). The review shall not extend to individual decisions to be reached under the regulatory

program, including specific alternatives or mitigation measures which might be proposed to lessen any significant adverse environmental effects of the activity. The secretary shall have 30 days after receipt of the proposed change to notify the state agency, board, or commission whether the proposed change will alter the regulatory program so that it no longer meets the qualification for certification established in this section and will result in a withdrawal of certification as provided in this section.

(g) Any action or proceeding to attack, review, set aside, void, or annul a determination or decision of a state agency, board, or commission approving or adopting a proposed activity under a regulatory program which has been certified pursuant to this section on the basis that the plan or other written documentation prepared pursuant to paragraph (3) of subdivision (d) does not comply with the provisions of this section shall be commenced no later than 30 days from the date of the filing of notice of the approval or adoption of the activity.

(h) Any action or proceeding to attack, review, set aside, void, or annul a determination of the Secretary of the Resources Agency to certify a regulatory program pursuant to this section on the basis that the regulatory program does not comply with the provisions of this section shall be commenced within 30 days after certification by the secretary.

In any action brought under this subdivision, the inquiry shall extend only to whether there was a prejudicial abuse of discretion by the Secretary of the Resources Agency. Abuse of discretion is established if the secretary has not proceeded in a manner required by law or if the determination is not supported by substantial evidence.

(i) For purposes of this section, any county agricultural commissioner shall be considered a state agency.

(j) For purposes of this section, any air quality management district or air pollution control district shall be considered a state agency, except that the approval, if any, by such agency of a nonattainment area plan shall be subject to the provisions of this section only if, and to the extent that, such approval adopts or amends rules or regulations.

(k) Any program for the regulation of pesticides certified pursuant to this section and Chapter 308 of the Statutes of 1978 shall apply to the use of pesticides by any state agency acting under authority of Divisions 4 (commencing with Section 5001) and 5 (commencing with Section 9101) of the Food and Agricultural Code in eradicating or controlling a plant or animal pest.

(*l*) 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 21080.5 of the Public Resources Code, as amended by Section 1 of Chapter

58 of the Statutes of 1982, shall have the same force and effect as if this temporary provision had not been enacted.

CHAPTER 1283

An act to amend Sections 871 and 1768.7 of the Welfare and Institutions Code, relating to youths.

[Approved by Governor September 30, 1985 Filed with Secretary of State September 30, 1985.]

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

SECTION 1. Section 871 of the Welfare and Institutions Code is amended to read:

871. (a) Any person under the custody of a probation officer or any peace officer in a county juvenile hall, or committed to a county juvenile home, ranch, camp, or forestry camp, or any person being transported to or from a county juvenile hall, home, ranch, camp, or forestry camp, who escapes or attempts to escape from that place or during transportation to or from that place, is guilty of a misdemeanor, punishable by imprisonment in the county jail not exceeding one year.

(b) Any person who commits any of the acts described in subdivision (a) by use of force or violence shall be punished by imprisonment in a county jail for not more than one year or by imprisonment in the state prison.

SEC. 2. Section 1768.7 of the Welfare and Institutions Code is amended to read:

1768.7. (a) Any person committed to the authority who escapes or attempts to escape from the institution or facility in which he or she is confined, who escapes or attempts to escape while being conveyed to or from such an institution or facility, who escapes or attempts to escape while outside or away from such an institution or facility under custody of Youth Authority officials, officers, or employees, or who, with intent to abscond from the custody of the Youth Authority, fails to return to such an institution or facility at the prescribed time while outside or away from the institution or facility on furlough or temporary release, is guilty of a felony.

(b) Any offense set forth in subdivision (a) which is accomplished by force or violence is punishable by imprisonment in the state prison for a term of two, four, or six years. Any offense set forth in subdivision (a) which is accomplished without force or violence is punishable by imprisonment in the state prison for a term of 16 months, two or three years or in the county jail not exceeding one year.

(c) For purposes of this section, "committed to the authority" means a commitment to the Youth Authority pursuant to Section 731

or 1731.5; a remand to the custody of the Youth Authority pursuant to Section 707.2; a placement at the Youth Authority pursuant to Section 704, 1731.6, or 1753.1; or a transfer to the custody of the Youth Authority pursuant to subdivision (c) of Section 1731.5.

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 1284

An act to add Section 1921 to the Civil Code, relating to loans.

[Approved by Governor September 30, 1985. Filed with Secretary of State September 30, 1985.]

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

SECTION 1. Section 1921 is added to the Civil Code, to read:

1921. (a) As used in this section:

(1) "Adjustable-rate residential mortgage loan" means any loan or credit sale which is primarily for personal, family, or household purposes which bears interest at a rate subject to change during the term of the loan, whether predetermined or otherwise, and which is made upon the security of real property containing not less than one nor more than four dwelling units.

(2) "Lender" means any person, association, corporation, partnership, limited partnership, or other business entity making, in any 12-month period, more than 10 loans or credit sales upon the security of residential real property containing not less then one nor more than four dwelling units.

(b) Any lender offering adjustable-rate residential mortgage loans shall provide to prospective borrowers a copy of the most recent available publication of the Federal Reserve Board that is designed to provide the public with descriptive information concerning adjustable-rate mortgages (currently entitled "Consumer Handbook on Adjustable Rate Mortgages"), either upon the prospective borrower's request or at the same time the lender first provides written information, other than direct-mail advertising, concerning any adjustable-rate residential mortgage loan or credit sale to the prospective borrower, whichever is earlier. Any lender who fails to comply with the requirements of this section may be enjoined by any court of competent jurisdiction and shall be liable for actual damages, the costs of the action, and reasonable attorney's fees as determined by the court. The court may make those orders as may be necessary to prevent future violations of this section.

(c) A lender that makes adjustable-rate mortgage loan disclosures pursuant to either Part 29 of Chapter 1 of, or Part 563 of Chapter V of, Title 12 of the Code of Federal Regulations, may comply with this section by providing the descriptive information required by subdivision (b) at the same time and under the same circumstances that it makes disclosures in accordance with those federal regulations. Such a lender shall also display and make the descriptive information available to the public in an area of the lender's office that is open to the public.

CHAPTER 1285

An act to add Sections 12534, 12582, and 12608.5 to the Food and Agricultural Code, and to add Sections 26539 and 26539.5 to the Health and Safety Code, relating to pesticide residue, and making an appropriation therefor.

[Approved by Governor September 30, 1985 Filed with Secretary of State September 30, 1985.]

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

SECTION 1. Section 12534 is added to the Food and Agricultural Code, to read:

12534. (a) Pursuant to this chapter, the director shall conduct a pesticide residue monitoring program for produce destined for processing to determine which pesticides are most likely to leave a residue and to what extent it is necessary to monitor the produce.

(b) The results of the program shall be made available to the Director of Health Services to provide accurate information to better focus sampling priorities.

SEC. 2. Section 12582 is added to the Food and Agricultural Code, to read:

12582. The director shall immediately notify the Director of Health Services by telephone, with immediate written confirmation, whenever a lot of produce destined for processing is found to be in violation of this chapter.

SEC. 3. Section 12608.5 is added to the Food and Agricultural Code, to read:

12608.5. Upon demand of the owner or person in rightful possession of the produce for permission to remove the produce destined for processing, the director shall release the produce to the custody of the Director of Health Services.

SEC. 4. Section 26539 is added to the Health and Safety Code, to read:

26539. The director, with the assistance of the Department of Food and Agriculture, and in cooperation with the federal Food and Drug Administration and Environmental Protection Agency, shall

identify those pesticides most likely to leave residue in processed foods.

SEC. 5. Section 26539.5 is added to the Health and Safety Code, to read:

26539.5. Whenever the director has been notified by the Director of Food and Agriculture pursuant to Section 12582 of the Food and Agricultural Code, the director shall immediately notify the processor, if known, by telephone, with immediate written confirmation, and take appropriate action pursuant to Section 26200.

SEC. 6. The sum of two hundred ten thousand five hundred seventy-one dollars ($210,571) is hereby appropriated from the General Fund to the Department of Food and Agriculture for purposes of Section 12534 of the Food and Agricultural Code.

CHAPTER 1286

An act to amend Sections 4075, 4076, 4078, 5651.1, and 5755 of, and to add Sections 319.1, 635.1, 4075.5, 4079, 5150.1, 5150.2, 5150.3, 5578.5, 5600.1, 5704.7, 5705.4, 5769, and 5770.5 to, to add Chapter 6.5 (commencing with Section 5560) to Part 1 of Division 5 of, Chapter 2.6 (commencing with Section 5680), Chapter 2.7 (commencing with Section 5690), Chapter 2.8 (commencing with Section 5697), Chapter 3.1 (commencing with Section 5725), and Chapter 4.1 (commencing with Section 5775) to Part 2 of Division 5 of, the Welfare and Institutions Code, relating to mental health, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1985. Filed with Secretary of State September 30, 1985.]

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

SECTION 1. This act shall be known and may be cited as the California Mental Health Services Reform Act of 1985 and may also be known and cited as the Bronzan-Mojonnier Act of 1985.

Consistent with the state's responsibility to provide for the general welfare of all its people, the State of California shall establish policies to promote mental health and to prevent mental illness among its people and to provide appropriate and effective treatment for those who experience significant mental disability.

All citizens share a responsibility for ensuring a safe and decent environment for the mentally disabled. Such an environment is necessary before any treatment of a mental disability can have a positive effect. The goal of treatment is to restore individuals to their highest level of functioning and independence. Treatment approaches must be individualized and must recognize and reward the unique progress of each individual. Families, who frequently

function as care givers, must be integrated into treatment plans whenever appropriate. The consequences of neglecting this public duty extend far beyond the human suffering of the individuals and their families and result in significant damage to society.

Consistent data, information, programmatic and clinical evaluation tools, and research, both basic as well as applied, are all necessary elements to build a base of knowledge in order to fulfill these responsibilities.

SEC. 1.5. The California State Assembly Select Committee on Mental Health has reviewed extensive studies, conducted public hearings and conferences with providers and recipients of mental health services. Based upon the work of the select committee, the Legislature finds and declares that:

(a) When deinstitutionalization policies were first adopted, the state and counties both assumed that the resources previously required to support the large state institutions would be shifted to the county level to support and treat those persons returned to or left in the community. In dramatic contrast to the community care system which developed for the developmentally disabled, in fact, this did not happen. As a result, large numbers of mentally disordered adults are homeless or living in seriously substandard conditions. Many others, in jails and prisons, receive little or no treatment, are discharged without proper provision for mental health treatment only to be reincarcerated at even greater human and public cost.

(b) For those persons suffering from major mental disorders and their families, the absence of public policy for psychiatric and psychological help, treatment, and psychosocial vocational support under deinstitutionalization has often had tragic and brutal consequences. The "chronically mentally ill" need the same things in their lives most other people take for granted: shelter, food, clothing, friends, meaningful work, and a sense of self-worth. State mental health policy must demonstrate and reinforce the fact that the mentally disordered have personal value in this society and that they shall be provided access to the necessary social, medical, psychological, and vocational resources to make the most of their lives.

(c) This absence of clear public policy has left the public mental health system in this state to manage the consequences. Many counties have performed admirably under the circumstances. Counties which have successfully developed or used a balanced continuum of services, ranging from a sophisticated battery of medical, psychiatric, psychological, and diagnostic and treatment techniques to simple but effective self-help, peer counseling, and social skill development, offer the most appropriate and cost-effective services to those with mental health treatment needs. But in too many other counties the volume of demand has far outweighed their ability to respond. The system cries out for the focused attention of state and county government over the next

several years.

(d) The multitude of reforms contained in this act are intended to be a first step on the pathway to build a body of public policy designed to make deinstitutionalization work for the mentally disordered and their families. By 1990 a review of California's public mental health system should reveal the following characteristics:

(1) Active participation for consumers and families in case management and treatment decisions throughout the system.

(2) Expanded alternatives to hospitalization in all areas of the state.

(3) Community support programs and a conservatorship system throughout the state focused on individual progress toward independent living in the community.

(4) Effective and active case management for those identified populations with long-term care needs.

(5) Adequate provision for involuntary treatment in each county as necessary.

(6) Sufficient acute hospital and nonhospital beds and other emergency services should be available so that peace officers attempting to obtain services for persons whose condition qualifies them for treatment under Sections 5150 and 5151 will not be turned away and left to book the person on a misdemeanor charge based on the same symptoms.

(7) Periodic and ongoing clinical evaluation of all cases and general ongoing evaluation of the system's aggregate performance.

(8) Ongoing medication monitoring for all clients.

(9) Flexibility for communities to design public or private systems of care, or both, culturally appropriate to those to be served.

(10) Full integration of medical services into the mental health care system.

(11) Training and development of appropriate professional and nonprofessional personnel to achieve these goals.

(12) An identified role for research in the system.

SEC. 1.6. Section 319.1 is added to the Welfare and Institutions Code, to read:

319.1. When the court finds a minor to be a person described by Section 300, and believes that the minor may need specialized mental health treatment while the minor is unable to reside in his or her natural home, the court shall notify the director of the county mental health department in the county where the minor resides. The county mental health department shall perform the duties required under Section 5697.5 for all those minors.

Nothing in this section shall restrict the provisions of emergency psychiatric services to those minors who are involved in dependency cases and have not yet reached the point of ajudication or disposition, nor shall it operate to restrict evaluations at an earlier stage of the proceedings or to restrict orders removing the minor from a detention facility for psychiatric treatment.

SEC. 2. Section 635.1 is added to the Welfare and Institutions

Code, to read:

635.1. When the court finds a minor to be a person described by Section 602 and believes the minor may need specialized mental health treatment while the minor is unable to reside in his or her natural home, the court shall notify the director of the county mental health department in the county where the minor resides. The county mental health department shall perform the duties required under Section 5697.5 for all those minors.

Nothing in this section shall restrict the provision of emergency psychiatric services to those minors who have not yet reached the point of ajudication or disposition, nor shall it operate to restrict evaluations at an earlier stage of the proceedings or to restrict the use of Sections 4011.6 and 4011.8 of the Penal Code.

SEC. 3. Section 4075 of the Welfare and Institutions Code is amended to read:

4075. The department shall establish and maintain an equitable system of payment for the special needs of mentally disordered persons in private residential care facilities for the mentally disabled as follows:

(a) The department shall establish the rates of payment which shall be based on the functional ability and programmatic needs of clients. By July 1, 1987, the department shall establish a standardized assessment tool and client monitoring system for counties to use in determining the functional ability and programmatic needs of mentally disordered clients pursuant to this chapter.

(b) No later than October 1, 1985, the department shall adopt regulations as are necessary to establish eligibility criteria for private residential care facilities, including, but not limited to, training and educational requirements for facility operators and staff and ability to meet specified special needs of clients.

(c) By July 1, 1980, and each year thereafter, the department shall establish rates. The rates shall annually be proposed to the Legislature by March 1 and shall be operative on July 1 of each year. In recommending funds to be appropriated, the department shall include actual caseload numbers, case estimates, and county and state administrative costs which shall be separately identified from the rates established by the department under this section. These rates shall include, but not be limited to, each of the cost elements in this section as follows:

(1) Rates established for all facilities shall include an adequate amount to care for "basic living needs" of a mentally disordered person. "Basic living needs" are defined to include housing (shelter, utilities, and furnishings), food, and personal care. These amounts shall be adjusted annually to reflect cost-of-living changes. A redetermination of basic living costs shall be undertaken every three years by the State Department of Mental Health using the best available estimating methods.

(2) To the extent applicable, rates established for facilities shall include a reasonable amount for "unallocated services." Such costs

shall be determined using generally accepted accounting principles. "Unallocated services" means the indirect costs of managing a facility and includes costs of managerial personnel, facility operation, maintenance and repair, employee benefits, taxes, interest, insurance, depreciation, and general and administrative support. If a facility serves other persons in addition to mentally disordered persons, unallocated services expenses shall be reimbursed under the provision of this section, only for the proportion of the costs associated with the care of mentally disordered persons.

(3) Rates established for facilities shall include an amount to reimburse facilities for the depreciation of "mandated capital improvements and equipment" as established in the state's uniform accounting manual. For purposes of this section, "mandated capital improvements and equipment" are only those remodeling and equipment costs incurred by a facility because an agency of government has required the remodeling or equipment as a condition for the use of the facility as a provider of care to mentally disordered persons.

(4) To the extent applicable, rates established for all facilities shall include as a "factor" an amount to reflect differences in the cost of living for different geographic areas in the state.

(5) Rates established for facilities shall include an amount for supervision where the functional ability or programmatic needs of residents require augmented supervisory staff.

(6) Rates of payment for private residential care facilities shall be established in ways which assure the maximum utilization of all federal and other sources of funding, to which mentally disordered persons are legally entitled, prior to the commitment of state funds for those purposes.

(d) Notwithstanding any other provision of law, the rates established under this section shall be equal to the rates established by the State Department of Developmental Services for equivalent categories on July 1, 1985, of regional center clients in private residential care facilities for the developmentally disabled, until the time, but in no case later than July 1, 1987, the department has established the assessment tool required under subdivision (a). However, in no case shall the rates established under this section be less than the rates paid for equivalent categories of regional center clients which were in effect on July 1, 1985.

(e) County and state administrative costs shall be separately identified from the rates established by the department under this section.

SEC. 4. Section 4075.5 is added to the Welfare and Institutions Code, to read:

4075.5. The Legislature finds as follows:

(a) The patient population in private residential care facilities for the mentally disordered has changed dramatically over recent years. Where previously the majority of these patients were in their 50's, the majority are now in their 30's, and likely to be more active and

violent with problems of alcohol or drug addiction and behavior control.

(b) Rates set for private residential care facilities for the mentally disordered are insufficient to assure adequate treatment of patients' programmatic needs because the rate structure is not based on these needs.

(c) Due to these insufficient payments, operators of private residential care facilities are not given any incentive to serve the more severely disturbed, and it is difficult to recruit sufficient private residential care facilities.

(d) Due to lack of incentive to serve the mentally disordered, the number of residential care facilities serving these persons has decreased rapidly in recent years. At the same time, research reports document a significant increase in the number of homeless persons, many of them mentally disordered.

(e) The homeless mentally disordered have become significant burdens on local governments and charitable relief organizations whose resources are overwhelmed by the number of persons requiring emergency food and shelter. Lack of access by mentally disordered homeless persons to necessities such as shelter, food, medical care, and mental health treatment represents a threat to their health and safety. Businesses and local economies are also impacted by the presence of homeless mentally disordered persons who do not have access to these necessities.

SEC. 4.5. Section 4076 of the Welfare and Institutions Code is amended to read:

4076. Each county shall apply for the adjusted rates and county administrative costs established under this chapter as part of the Short-Doyle plan pursuant to Section 5651 or a negotiated net amount contract by the state or county pursuant to subdivision (c) of Section 5705.2. However, notwithstanding Section 5705, no county matching funds are required under this section for fiscal years 1985–86 and 1986–87.

SEC. 5. Section 4078 of the Welfare and Institutions Code is amended to read:

4078. Facilities funded pursuant to this chapter shall be licensed under existing licensing categories, including provisional licenses.

SEC. 6. Section 4079 is added to the Welfare and Institutions Code, to read:

4079. Notwithstanding any other provision of law, the amounts paid under this chapter to eligible private residential care facilities shall not be less than the rates established by the department pursuant to Section 4075.

SEC. 6.2. Section 5150.1 is added to the Welfare and Institutions Code, to read:

5150.1. No peace officer seeking to transport, or having transported, a person to a designated facility for assessment under Section 5150, shall be instructed by mental health personnel to take the person to, or keep the person at, a jail solely because of the

unavailability of an acute bed, nor shall the peace officer be forbidden to transport the person directly to the designated facility. No mental health employee from any county, state, city, or any private agency providing Short-Doyle psychiatric emergency services shall interfere with a peace officer performing duties under Section 5150 by preventing the peace officer from entering a designated facility with the person to be assessed, nor shall any employee of such an agency require the peace officer to remove the person without assessment as a condition of allowing the peace officer to depart.

"Peace officer" for the purposes of this section also means a jailer seeking to transport or transporting a person in custody to a designated facility for assessment consistent with Section 4011.6 or 4011.8 of the Penal Code and Section 5150.

SEC. 6.4. Section 5150.2 is added to the Welfare and Institutions Code, to read:

5150.2. In each county whenever a peace officer has transported a person to a designated facility for assessment under Section 5150, that officer shall be detained no longer than the time necessary to complete documentation of the factual basis of the detention under Section 5150 and a safe and orderly transfer of physical custody of the person. The documentation shall include detailed information regarding the factual circumstances and observations constituting probable cause for the peace officer to believe that the individual required psychiatric evaluation under the standards of Section 5105.

Each county shall establish disposition procedures and guidelines with local law enforcement agencies as necessary to relate to persons not admitted for evaluation and treatment and who decline alternative mental health services and to relate to the safe and orderly transfer of physical custody of persons under Section 5150, including those who have a criminal detention pending.

SEC. 6.6. Section 5150.3 is added to the Welfare and Institutions Code, to read:

5150.3. Whenever any person presented for evaluation at a facility designated under Section 5150 is found to be in need of mental health services, but is not admitted to the facility, all available alternative services provided for pursuant to Section 5151 shall be offered as determined by the county mental health director.

SEC. 6.7. Section 5150.4 is added to the Welfare and Institutions Code, to read:

5150.4. "Assessment" for the purposes of this article, means the determination of whether a person shall be evaluated and treated pursuant to Section 5150.

SEC. 6.8. Chapter 6.5 (commencing with Section 5560) is added to Part 1 of Division 5 of the Welfare and Institutions Code, to read:

CHAPTER 6.5. POLICY INITIATIVES RELATING TO THE CRIMINALIZATION OF THE MENTALLY DISORDERED

5560. The Legislature has found that in some counties an extreme shortage of mental health emergency services, including state and local acute psychiatric beds, has resulted in the redirection of long-time psychiatric patients from the mental health system into the jails. This can occur when peace officers are unable to obtain either evaluation for a person under Section 5150 or the alternative services mandated by Section 5151. It can also occur when a local law enforcement agency cannot afford the waiting time necessary to determine whether the mental health treatment system will take responsibility for the patient. The symptoms of the acute psychotic episode which may provide the basis for involuntary treatment under these sections, can also constitute the factual basis for a municipal code, Penal Code, or other violation. This is often termed a "mercy booking" or booking, in lieu of a bed. A person suffering from an acute psychotic episode may become temporarily unacceptable in both living and employment arrangements and in dealing with public agencies and business establishments. When denied services under Section 5150 because no state or local acute care beds are available, that person is unable to resume community living and community treatment and often becomes homeless. Even in a system with adequate acute beds and alternative emergency psychiatric services, an acutely psychotic person is sometimes booked for an offense when Section 5150 would have been used if the condition had been recognized.

5561. The director shall request five counties whose total population comprises no less than a majority of the state's total population to assess with county mental health and law enforcement agencies the adequacy and appropriateness of existing county mental health emergency response systems. If any other county which otherwise meets this goal, but would nonetheless choose to make specific findings and recommendations to the state regarding the appropriateness of county services, the county shall be permitted to do so. Notwithstanding any other provision of law, no information solely reported pursuant to this chapter shall be used by any state agency to sanction, either through licensure or reimbursement, policies in any county.

5562. (a) In preparing the recommendations pursuant to Section 5561, the county shall review available data for each year from 1977 to the effective date of this chapter on all of the following:

(1) The number of jail or court initiated adult orders under Section 4011.6 of the Penal Code and separately stated, the number under Section 4011.8 of the Penal Code, including any available data on matters such as a backlog of persons waiting for beds on these orders.

(2) The number of persons being released from the jail who were referred under Section 5150.

(3) The number of misdemeanants, by offenses charged in the criminal complaint, referred for proceedings under Section 1368 of the Penal Code.

(4) The number of persons receiving antipsychotic medication in the jail.

(5) The number of publicly funded acute psychiatric beds for involuntary patients available to the county at local or state hospitals, specifically excluding from the count long-term or rehabilitation state hospital beds.

(6) If available, the number of persons refused evaluation under Section 5150 for lack of an available placement. To obtain this information the county mental health director shall contact law enforcement agencies within the county.

(b) If comprehensive data for all of those years are not available under subdivision (a), any studies made or data collected for sample periods may be supplied. Any related information including, but not limited to, the number of persons seeking admission who were arrested on or adjacent to psychiatric hospital grounds for refusing to leave, or any logs or other data prepared for any civil suit may be provided, so that the county may determine which areas have the most compelling need.

(c) The department shall provide counties information from its own records on the number of holds written under Sections 5150 and 5250 on residents of applicant counties for each year from 1977 to the effective date of this section.

(d) The sheriff and local police agencies in each county shall be provided the opportunity to review and comment on the information gathered relative to their county under this section.

5563. A report detailing the findings developed pursuant to this chapter shall be prepared by the department and submitted to the Governor and Legislature within two years after the effective date of this chapter. The report shall include specific recommendations concerning needed resources, changes in statute, policy, and operating procedure that will assure the availability of psychiatric emergency services for persons referred by peace officers under Sections 5150 and 5151 of the Welfare and Institutions Code.

SEC. 6.9. Section 5578.5 is added to the Welfare and Institutions Code, to read:

5578.5. During the 1985–86 fiscal year, each county shall initiate discussions with other public agencies serving seriously emotionally disturbed children and adolescents, including, but not limited to, special education, foster care, and child protective and juvenile justice services to identify common needs and joint planning opportunities.

No later than January 1, 1987, each county shall have a plan for the development of a coordinated system of services to address the needs of seriously emotionally disturbed children.

The plan shall include protocols developed in the county for case assessment designed to determine the least restrictive appropriate

mental health treatment setting for each child, planning and facilitating the provision of needed services for the child and family when necessary, monitoring those services, and methods for client and family advocacy to occur within the system.

A special section of the county Short-Doyle Plan submitted to the state in preparation for the 1986–87 budget shall include a brief description of the progress of the county in developing the local plan required by this section, as well as fiscal estimates for the following three fiscal years for anticipated costs associated with the development of the system.

SEC. 7. Section 5600.1 is added to the Welfare and Institutions Code, to read:

5600.1. Whenever a county believes that a mentally disabled person may be unable to manage his or her SSI/SSP funds, the county mental health program shall advise the person that he or she may have a trusted family member, relative or friend designated as their representative payee under the SSI/SSP program.

SEC. 7.5. Section 5651.1 of the Welfare and Institutions Code is amended to read:

5651.1. In developing and providing the services of a county mental health program, the county shall consider, and make provision for, all of the following priority populations:

(a) Chronically mentally ill, including those who are homeless.

(b) Mentally disturbed children and adolescents, including juvenile sex offenders and juvenile victims of sex offenses.

(c) Mentally ill elderly, including those who are isolated elderly.

(d) Mentally ill jail inmates, mentally ill wards of juvenile detention facilities, and mentally ill persons who are nuisance offenders to prevent inappropriate placement in the justice system.

(e) Underserved populations, including ethnic minorities, refugees, veterans, and other victims of posttraumatic stress disorders, and individuals diagnosed as both mentally ill and developmentally disabled.

The enumeration of priority populations in this section does not establish a priority ranking.

SEC. 8. Chapter 2.6 (commencing with Section 5680) is added to Part 2 of Division 5 of the Welfare and Institutions Code, to read:

CHAPTER 2.6. COMMUNITY SUPPORT SYSTEM FOR HOMELESS MENTALLY DISABLED PERSONS

5680. In order to assist homeless mentally disabled persons to secure, stabilize, and maintain safe and adequate living arrangements in the community, the Legislature hereby establishes the Community Support System for Homeless Mentally Disabled.

5681. It is the intent of the Legislature that funds shall be made available to counties to assure the delivery of long-range services and community support assistance to homeless mentally disabled persons and those at risk of becoming homeless.

It is further the intent of the Legislature that all services of the community support system are to be offered to such persons on a voluntary basis, that the active participation of the clients being provided services is encouraged at all times, and programs are designed to be accessible to the clients intended to be served.

It is further the intent of the Legislature that specific outreach and service priority be given under this chapter to homeless mentally disabled persons not served by any local or state programs as of the effective date of this section.

5682. The goal of the community support system is to assure that needed community services are provided to homeless mentally disabled persons and those at risk of becoming homeless to stabilize, maintain, and enhance their living in the community.

5683. The function of the community support system is to conduct active outreach to homeless mentally disabled persons, to secure and maintain income, housing, food, and clothing for clients, and to develop social skills and prevocational and vocational skills on a voluntary basis. Each community support system shall make available, as may be necessary to meet each client's needs, the following:

(a) Personal assistance in securing and maintaining housing, food, and clothing arrangements.

(b) Personal assistance in securing and maintaining income and health benefits.

(c) Money management assistance.

(d) Crisis intervention services, focusing on finding appropriate alternatives to acute inpatient hospital care.

(e) Social and vocational skill development activities, as determined by each client's needs, interests, and abilities.

(f) Service coordination including, but not limited to, treatment services.

No individual service offered may be contingent upon the acceptance of any other community support service or mental health treatment.

Each agency designated by a county to be a service provider under this chapter shall establish personnel hiring policies that it determines are necessary to ensure the hiring of staff with demonstrated skills in various functions to be performed by the agency.

5684. Each community support program shall also assist its clients to establish self-help groups and peer counseling. Each agency shall offer each client a written individualized service plan that will specify the services to be provided as a result of discussions with the client and the rights of the client, as well as the expected results or outcomes of the services. Each program shall encourage each client to include family members, friends, his or her primary therapist, and his or her physician in the development of his or her individualized service plan.

5685. Counties may provide specific services, contract with a

public or private agency, or a combination of both. Nothing contained in this article shall prevent a county from developing a consortium model which involves a number of providers performing specific functions. If a county decides to contract out a portion or all of the community support program functions, priority shall be given to providers, public or private, that have demonstrated an ability and desire to the county to work with the population intended to be served and which possess the management skills needed to perform the functions they propose to perform.

5686. The director shall establish guidelines governing the Community Support System for Homeless Mentally Disordered that will allow the counties maximum flexibility in meeting local needs while fulfilling the intent of the Legislature in authorizing this chapter.

The director shall consult with the California Conference of Local Mental Health Directors, the Citizens Advisory Council and other appropriate agencies and groups, in developing the policies and procedures for implementing this chapter which shall include:

(a) A definition of "homeless" and "at risk of being homeless" as applied to the people to be served by this chapter. This definition shall reflect the fact that many people with serious mental disabilities may now move in and out of many facilities and living arrangements or may be isolated in inappropriate living arrangements and that these people are intended to be served by this chapter in addition to those literally living out on the street.

(b) Criteria for departmental review and approval of local county plans.

(c) Documentation that, upon release from 24-hour health facilities where he or she was receiving mental health evaluation or treatment, was offered assistance from the community support program in obtaining suitable living arrangements.

(d) Guidelines and minimum requirements for agency client service agreements cited in Section 5681.

(e) Guidelines for the agency or client to revise or terminate the service agreement cited in Section 5681.

5686.5. In order to make the most efficient use of the public funds appropriated for this purpose, counties are encouraged to maximize the use of existing public and private community resources. If voluntarily requested by the client, the community support agency shall help the client learn to manage his or her own money. Any SSI/SSP money, if managed by the program, shall, at all times, be considered as the client's money. Nothing in this section, however, shall prevent a client from purchasing residential care with SSI/SSP funds.

5687. The department shall establish such administrative requirements as are necessary for providers participating in the community support program in order to assure proper management of public funds to be spent pursuant to this chapter for the direct benefit of clients served, including, but not limited to, bonding,

insurance, and accounting procedures. These requirements shall be developed in consultation with the Director of Finance and the Controller.

No county shall release funds to a provider proposed to participate in the community support program until these requirements are met.

5687.5. The department shall obtain from every local mental health program a statement which describes the county's response to providing services to this population, unless the program statement is already included in the county plan.

5688. Program statements by counties shall contain the following information:

(a) An estimate of the population fitting the eligibility criteria established by the department and a description of the methods used to produce the estimate.

(b) The number of people to be served for the fiscal year.

(c) A description of outreach activities that will be conducted to establish initial contact with the people to be served.

(d) A description of the core services as enumerated in Section 5686 and any other services to be directly provided by the community support system, consistent with the provisions of Section 5686.

(e) Demonstrated linkage to appropriate agencies to ensure that eligibility for public entitlements is determined for each client in the most expeditious and efficient manner. This shall include a description of how the county will provide persons with a medical or psychiatric evaluation, or both, as required by the appropriate agencies.

(f) A description of the mental health services that will be made available and accessible to the clients served.

(g) A description of the services to be obtained from other agencies and organizations in the community that are accessible to the clients, including such documentation as letters of agreement, resolutions passed by governing bodies, contracts, or letters of intent.

(h) An annual budget containing such information as required by the department. Notwithstanding the provisions of Section 17000, the budget shall demonstrate a maintenance of effort in current mental health and other social service agencies and benefits in the county for homeless mentally disabled persons as defined in this chapter.

5688.5. The department shall review and evaluate all submissions by the counties and notify the counties in writing of their acceptance or denial within 60 days of submission.

SEC. 9. Chapter 2.7 (commencing with Section 5690) is added to Part 2 of Division 5 of the Welfare and Institutions Code, to read:

CHAPTER 2.7. COMMUNITY VOCATIONAL TREATMENT SYSTEM

5690. It is the intent of the Legislature to establish in each county a system of community vocational treatment programs, consisting of prevocational, vocational, and employment elements, for persons with serious mental disabilities. It is further the intent of the Legislature that there be a range of available services in each county based on the principle that work is an essential treatment component in the local mental health treatment and support system.

5691. Counties may implement the community vocational treatment system described in this chapter with existing county allocations, funds available from the Department of Rehabilitation and other state agencies, or by utilizing any supplemental Short-Doyle allocation that may be appropriate.

5692. The Director of Mental Health and the Director of Rehabilitation shall convene an interdepartmental task force that will compare the habilitation and rehabilitation services available to developmentally disabled persons through the Department of Rehabilitation with those available to mentally ill persons, the funds made available for each group for habilitation, and recommend an approach that will facilitate the development of community vocational treatment systems, coordinate the utilization of state and federal resources, and encourage counties to maximize the utilization of federal funds through the contract mechanism authorized in Section 5653.

5693. Programs that constitute the community vocational treatment system are of the following types:

(a) Prevocational programs which may be, but are not limited to, components of day treatment programs, socialization and activity centers, board-and-care facilities, and skilled nursing-special treatment programs. Prevocational programs may use individual and group therapies, educational groups, volunteer service programs, and other modalities to prepare individuals for participation in a vocational program and eventual employment.

(b) Vocational programs providing linkage and coordination for the system and which provide the following:

(1) Information, outreach, and referral services which provide ongoing liaison with prevocational programs, ongoing evaluation and referral of clients in long-term supportive employment programs, self-help groups, and mental health professionals in private practice.

(2) Intake and evaluation services which may use vocational testing and analysis of work history to identify vocational strengths, weaknesses, and needs. The evaluation findings shall be used by the client and the program to negotiate the goals and objectives of an individual vocational plan.

(3) Work experience programs which consist of time-limited work opportunities that enable participants to develop work skills and establish a work history. These programs may include vocational agency-operated businesses, work placements in the community, or

other activities that provide a realistic work environment.

(4) Individual and group counseling services which are separated from the work experience component; individual counseling to assist clients in resolving problems related to the work situation, to update and renegotiate the individual vocational plan, and to assist clients with nonwork-related problems that affect their participation in the program; group counseling to address Social Security Administration rules and regulations, the effects of medication on work performance, the relationship between work and mental health, attributes and attitudes necessary for successful employment, job-seeking skills, and other related topics.

(5) Job development, placement, and referral services which assist clients in the following areas: obtaining competitive employment; admission to job training or education programs; referral to the Department of Rehabilitation; long-term supportive employment programs; vocational agency-operated competitive employment programs; governmental and private sector affirmative action hiring programs for the disabled; or other specialized employment programs. If employment, training, or education programs are not suitable for a client, the client will be actively referred back to a prevocational program or other mental health program that best meets his or her current needs.

(6) Support services which may include peer support groups and job clubs to assist clients in obtaining and maintaining employment; ongoing client counseling and placement followup; employer training, consultation, and placement followup services; and consultation services to prevocational programs.

(c) Employment programs established concurrently with, or after, vocational programs which are alternatives to competitive employment and which include both of the following:

(1) Long-term supportive employment programs that are coordinated with the client's SSI/SSP benefits to assure continued eligibility. Clients participating in this type of program should be reevaluated at intervals, not to exceed three months, to determine if the program continues to meet their needs or if referral to another vocational program is indicated. This type of program shall strive toward economic self-sufficiency, and, as a minimum goal, provide 50 percent of their total operating costs from program-generated revenue within a three-year period.

(2) Client-operated alternative employment programs that are managed and controlled by clients and that primarily employ clients and former clients.

5694. The following principles should guide development of community vocational treatment systems:

(a) Work:

(1) Work should be meaningful, necessary, and have value to the individual performing it.

(2) Clear distinctions should be maintained between vocational programs and other types of programs, including, but not limited to,

socialization and recreation programs.

(3) For individuals participating in programs classified as employment or vocational, every effort should be made to pay them the minimum wage. However, as a minimum goal they should not be paid less than 50 percent of the minimum wage, and wages shall be paid in compliance with all state and federal labor laws.

(4) That work will result in the development of attributes that will enhance further employability.

(b) Staff:

(1) Staffing patterns at all levels should reflect the cultural, linguistic, ethnic, racial, disability, sexual, and other social characteristics of the community the program serves.

(2) All participating programs should take affirmative action to encourage the application and employment of consumers and former consumers of the mental health system at all program levels.

(3) Programs should be designed to use multidisciplinary professional consultation and staff to meet the specific diagnostic and treatment needs of clients.

(4) When operating a business enterprise, programs should employ individuals with the business, management, supervisorial, trade, and occupational skills necessary for successful operation.

(5) Programs should, where appropriate, employ paraprofessionals.

(6) Programs should develop and implement staff training and development plans for personnel at all levels.

(c) Facilities:

(1) The individual elements of the system should, where possible, be in separate facilities.

(2) Facilities housing vocational and employment programs should be modeled on competitive businesses operating in the community.

(3) Facilities shall be in compliance with all state and federal safety, health, and accessibility regulations.

(d) System:

(1) Counties developing a community vocational treatment system should utilize existing program resources to develop prevocational programs and a referral base for vocational programs.

(2) Individual programs operate most effectively within the context of a complete system. Counties undertaking development of a community vocational treatment system should commit themselves to the implementation of regionally integrated prevocational, vocational, and employment programs within a three-year period.

(3) Rural counties, where appropriate, should be encouraged to develop intercounty systems, or to integrate their programs with programs serving other target populations.

(4) The system should have the capacity to deliver services tailored to individual needs. If a program is found to be unsuitable for a client at a specific time, an explanation will be provided to the

client and he or she shall be referred to a more suitable program and encouraged to reapply. The system should have policies designed to meet changing client needs and to work with individuals over time to develop their vocational potential.

5695. Counties undertaking development of a community vocational treatment system are encouraged to establish an advisory group consisting of primary consumers, parents, representatives from the business community, and other individuals who may provide assistance in developing the system.

5696. The director shall provide technical assistance to those counties developing a community vocational treatment system. In the event that the department lacks sufficient resources to provide technical assistance, it may be provided by contract.

SEC. 10. Chapter 2.8 (commencing with Section 5697) is added to Part 2 of Division 5 of the Welfare and Institutions Code, to read:

CHAPTER 2.8. POLICY INITIATIVES FOR SERIOUSLY EMOTIONALLY DISTURBED CHILDREN

Article 1. Coordination of Children's Services

5697. As used in this article, "seriously emotionally disturbed child or adolescent" means a child or adolescent with a mental disorder identified in the current edition of the Diagnostic and Statistical Manual of Mental Disorders resulting in behavior which is inappropriate to the child's age according to expected developmental norms. This abnormal behavior is persistent, the behavioral symptomology is both severe and frequent, the behavior causes suffering, social restriction, interference with development, and has a negative effect on others to the detriment of the child's development in needed relationships. When applied to the educational needs of seriously emotionally disturbed children or adolescents, applicable federal laws and regulations defining those children or adolescents shall apply.

5697.5. When the director of mental health in a county is notified pursuant to the provisions of Section 319.1 or 635.1 of this code or Section 7572.5 of the Government Code about a specific case, the mental health director shall assign the responsibility either directly or through contract with a private provider, to review the information and assess whether or not the child is seriously emotionally disturbed as well as to determine the level of involvement in the case needed to assure access to appropriate mental health treatment services and whether appropriate treatment is available through the minor's own resources, those of the family or another private party, or through another agency, and to ensure access to services available within the county's program. This determination shall be submitted in writing to the notifying agency within 30 days. If appropriate treatment is not available within the county's program, nothing in this section shall prevent the

court from ordering treatment directly or through a family's private resources.

Article 2. Programs to Reduce the Incidence of Youth Suicide

5698. The department shall develop a five-year youth suicide prevention program to develop all of the following:

(a) Research and data collection on youth suicide.

(b) Public education material production and distribution in conjunction with other public agencies and the private sector throughout the state.

(c) Training programs involving students, parents, teachers, school administrators, mental health professionals, local social service agencies, juvenile justice representatives, and others concerned with the problem of youth suicide.

(d) A final evaluation and report to the Governor and Legislature no later than July 1, 1991.

SEC. 10.5. Section 5704.7 is added to the Welfare and Institutions Code, to read:

5704.7. The State Department of Mental Health and the State Department of Health Services shall implement a cost study, to be completed by January 31, 1987, to determine the actual cost, per reimbursable service function, of Short-Doyle mental health services provided to children, adolescents, and their families. These costs shall be the basis for the calculation and establishment of distinct rates or reimbursement for services provided to children, adolescents, and their families under the Short-Doyle/Medi-Cal Program effective July 1, 1987. The State Department of Health Services shall make the necessary amendments to the State Medicaid Plan and to regulations pertaining to reimbursement for Short-Doyle mental health services provided to Medi-Cal beneficiaries.

SEC. 11. Section 5705.4 is added to the Welfare and Institutions Code, to read:

5705.4. For the 1985–86 and 1986–87 fiscal years, the cost requirement for local financial participation pursuant to Section 5705, including administrative costs, shall be waived for supplemental rates of payment for residential care facilities for the mentally disordered pursuant to Section 4076.

SEC. 12. Chapter 3.1 (commencing with Section 5725) is added to Part 2 of Division 5 of the Welfare and Institutions Code, to read:

CHAPTER 3.1. TARGETED SUPPLEMENT FUND

5725. The Legislature finds that a number of particular critical problems within the current public mental health system throughout the state require an immediate commitment for local assistance to provide counties with the opportunity to address these problems. Further, the Legislature finds that providing this assistance will encourage innovation in the development of the state-county

partnership through the initiation of information and evaluation systems designed to measure the outcome and impact of specific interventions addressing these problems.

5726. There is hereby created in the State Treasury the Target Supplement Fund. This fund is created for the department to support the development of resources and systems in solving the locally identified problems in serving the priority populations identified in Section 5651.1 and for the purposes projected under Section 5727 and to measure the outcome and impact resulting from the implementation of this article.

The Target Supplement Fund shall be funded from any appropriations made for these purposes.

5727. The director shall approve, subject to available funds, county plans for utilization of its allocation under this chapter if, in the director's judgment, the county has complied with all of the following:

(a) The plan will utilize funds for any of the purposes established annually in the Budget Act relative to the priority populations enumerated in Section 5651.1. During the 1986–87 fiscal year, the fund shall be used for the following purposes:

(1) To reduce and eliminate the incidence of seriously mentally disordered persons being inappropriately placed in the criminal justice system rather than receiving needed mental health treatment.

(2) To reduce the waiting lists and management problems in local jails for seriously mentally disordered inmates who require secure mental health treatment settings.

(3) To reduce the incidence of sex offenses among children and adolescents in the state.

(4) To increase utilization of mental health treatment services among elderly and veterans.

(b) The county will otherwise maintain its Short-Doyle program and not shift the subvention of services to this revenue source.

(c) The county has demonstrated evidence of the local priorities to be addressed and has provided detailed information which assures specific methods will be utilized to measure on both a quantative and qualitative basis the outcome and impact of the activities to be supported from this fund.

(d) The county has demonstrated joint planning with other public agencies involved in serving the same populations.

5728. At least annually, the director shall offer counties the opportunity to apply for unallocated or unexpended funds under this chapter.

5729. Section 5704.6 does not apply for the purposes of this chapter, except that the director may allow a county to fund children's services under this chapter if the county has a plan approved by the director pursuant to Section 5578.5.

SEC. 13. Section 5755 of the Welfare and Institutions Code is amended to read:

5755. Each year, the State Department of Mental Health shall adopt and submit to the Legislature a state plan for community mental health services which shall include, but is not limited to, program needs of the priority populations identified in Section 5651.1. The director shall consult with the California Conference of Local Mental Health Directors and the Citizens Advisory Council in developing the state plan. The plan shall include proposals for developing needed programs and shall be updated and amended as necessary.

SEC. 14. Section 5769 is added to the Welfare and Institutions Code, to read:

5769. The department shall review the licensing, benefits, and reimbursement policies of the Medi-Cal program and make recommendations as necessary to the Director of Health Services, the Secretary of the Health and Welfare Agency, the Governor, and the Legislature to assure that these state policies are consistent with the following goals:

(a) Voluntary placement for the provision of mental health treatment services shall be encouraged at all times.

(b) Counties shall be allowed maximum flexibility to respond to community needs for the provision of involuntary mental health treatment.

The director shall consult with the Conference of Local Mental Health Directors and the Citizens Advisory Council in fulfilling this responsibility.

SEC. 14.5. Section 5770.5 is added to the Welfare and Institutions Code, to read:

5770.5. The department shall encourage county mental health programs to develop and support local programs designed to provide technical assistance to self-help groups for the purposes of maintaining existing groups, as well as to stimulate development of new self-help groups from locally defined needs.

SEC. 15. Chapter 4.1 (commencing with Section 5775) is added to Part 2 of Division 5 of the Welfare and Institutions Code, to read:

CHAPTER 4.1. RESEARCH

5775. It is the intent of the Legislature that the department provide leadership in the establishment and funding of mental health research projects. The projects shall lead to better understanding of the mental health needs of treatment alternatives necessary to meet those needs of the citizens of this state.

5776. The director shall appoint a Mental Health Research Advisory Committee. This committee shall consult with program administrators, providers, consumers, families, and research scientists. This committee shall advise and assist the director in establishing research priorities and in other research related activities as appropriate.

5777. Research performed pursuant to this chapter shall have as

a priority serious psychiatric disorders which are the responsibility of the department. Research shall be conducted in, or in collaboration with, state or local mental health program facilities that serve public needs. In order to preserve continuity, research programs may be funded for up to five years depending upon the nature of the project and availability of funds.

5778. In order to improve the quality of mental health care in this state, a portion of the funding for research pursuant to this chapter shall be used to provide technical advice, consultation, and education on diagnosis and treatment within the public mental health system upon request of a county.

SEC. 16. 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. 17. Compliance with the requirements resulting from this act shall be subject to appropriation through the Budget Act.

SEC. 18. Funds from one-time savings in Item 4440-101-001 of the Budget Act of 1985 are hereby reappropriated to the Director of Mental Health to implement additional 24-hour care beds on a half-year basis pursuant to this section to reduce the incidence of seriously mentally disordered persons from being inappropriately placed in the criminal justice system rather than receiving needed mental health treatment. The Director of Mental Health shall provide a 30-day written notice to the Joint Legislative Budget Committee prior to approving the use of these savings for the purposes of this section.

The services provided pursuant to this section shall be funded on an ongoing basis from any appropriations made available for these purposes.

SEC. 19. Sections 3, 4, 4.5, 5, 6, and 11 shall not become operative if Senate Bill 155 of the 1985–86 Regular Session of the Legislature is chaptered and becomes operative on or before January 1, 1986. This act is an urgency statute necessary for the immediate preservation of 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 the criteria and program descriptions for the distribution of the twenty million dollars ($20,000,000) appropriated by Item 4440-101-001 of the Budget Act of 1985 for programs for the chronically mentally ill homeless in a timely manner, it is necessary that this act take effect immediately.

CHAPTER 1287

An act to add and repeal Sections 15953 and 65081.5 of the Government Code, relating to transit.

[Approved by Governor September 30, 1985. Filed with Secretary of State September 30, 1985.]

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

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) The transportation needs of the elderly and handicapped are often not being met by the existing transportation systems and, in many rural areas of the state, there exist no public transportation systems at all.

(b) In both rural and urban areas of California, existing public transit systems have difficulty meeting the special needs of the elderly and handicapped.

(c) Often, specialized transportation (paratransit) is the only means of transportation available to the elderly and handicapped. These specialized transportation services provide needed rides for medical purposes, shopping, employment, to nutrition sites, to adult day health centers, and to social day centers.

(d) Transportation services are also necessary as support for other programs operated for the transportation handicapped, such as regional centers, senior centers, senior legal services, multipurpose senior services projects, stroke rehabilitation centers, and in-home supportive service programs.

(e) The ability of elderly and handicapped persons to remain in their home and community environment is directly related to their ability to gain access to these necessary services and programs. It is also in the best interests of the state, for social, health, and economic reasons, to minimize the number of elderly and handicapped persons who may require institutionalization.

(f) The Legislature enacted the Social Service Transportation Improvement Act (Part 13 (commencing with Section 15950) of Division 3 of Title 2 of the Government Code) to improve transportation services required by social service recipients by promoting the consolidation and better coordination of these services. In so doing, the Legislature intended that each transportation planning agency and county transportation commission designate a consolidated transportation service agency for the purpose of implementing the goals of the act. Many of the transportation planning agencies and county transportation commissions have not complied with that act, and in other counties a consolidated transportation service agency has been designated but is nonfunctioning. Thus, the goals of the Legislature have not yet been completely achieved.

(g) It is therefore the intent of this act to better identify the transportation needs of elderly and handicapped persons residing in rural areas and to provide an incentive to transportation planning agencies and county transportation commissions to fully implement the goals established by the Social Service Transportation Improvement Act.

SEC. 2. Section 15953 is added to the Government Code, to read:

15953. The Department of Transportation, with the assistance of the California Association for Coordinated Transportation, shall develop an action plan that will have as its major focus the continuing implementation of this part. The plan developed by the department shall stress coordination with existing agencies and associations involved in promoting coordinated and consolidated specialized transportation. The department shall fund its activities pursuant to this section with existing resources.

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. 3. Section 65081.5 is added to the Government Code, to read:

65081.5. (a) The regional transportation plan prepared pursuant to Section 65081 shall include in the biannual update, beginning January 1, 1986, a section that specifically focuses on the transportation needs of elderly and handicapped persons who reside in rural areas.

(b) "Rural area" means all parts of the state other than those defined as urbanized areas in Section 99217 of the Public Utilities Code.

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. 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 1288

An act to amend Sections 5113, 5152, 5154, 5170.7, 5172, 5173, 5257, 5259.3, 5264, 5267, 5306, and 5309 of the Welfare and Institutions Code, relating to mental health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1985. Filed with Secretary of State September 30, 1985.]

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

SECTION 1. Section 5113 of the Welfare and Institutions Code is amended to read:

5113. Except as provided in Sections 5154, 5173, 5259.3, 5267, and 5306, the facility providing treatment pursuant to Article 1 (commencing with Section 5150), Article 1.5 (commencing with Section 5170), Article 4 (commencing with Section 5250), Article 4.5 (commencing with Section 5260) or Article 6 (commencing with Section 5300), the superintendent of the facility, the professional person in charge of the facility and his or her designee, or the peace officer responsible for the detainment of the person shall not be civilly or criminally liable for any action by a person released at or before the end of the period for which he or she was admitted pursuant to the provisions of the appropriate article.

SEC. 2. Section 5152 of the Welfare and Institutions Code is amended to read:

5152. Each person admitted to a facility for 72-hour treatment and evaluation under the provisions of this article shall receive an evaluation as soon after he or she is admitted as possible and shall receive whatever treatment and care his or her condition requires for the full period that he or she is held. The person shall be released before 72 hours have elapsed only if, the psychiatrist directly responsible for the person's treatment believes, as a result of his or her personal observations, that the person no longer requires evaluation or treatment. If any other professional person who is authorized to release the person, believes the person should be released before 72 hours have elapsed, and the psychiatrist directly responsible for the person's treatment objects, the matter shall be referred to the medical director of the facility for the final decision. However, if the medical director is not a psychiatrist, he or she shall appoint a designee who is a psychiatrist. If the matter is referred, the person shall be released before 72 hours have elapsed only if the psychiatrist making the final decision believes, as a result of his or her personal observations, that the person no longer requires evaluation or treatment.

Persons who have been detained for evaluation and treatment shall be released, referred for further care and treatment on a voluntary basis, certified for intensive treatment, or a conservator or temporary conservator shall be appointed pursuant to this part as required.

SEC. 3. Section 5154 of the Welfare and Institutions Code is amended to read:

5154. (a) Notwithstanding Section 5113, if the provisions of Section 5152 have been met, the professional person in charge of the facility providing 72-hour treatment and evaluation, his or her

designee, the medical director of the facility or his or her designee described in Section 5152, and the psychiatrist directly responsible for the person's treatment shall not be held civilly or criminally liable for any action by a person released before the end of 72 hours pursuant to this article.

(b) The professional person in charge of the facility providing 72-hour treatment and evaluation, his or her designee, the medical director of the facility or his or her designee described in Section 5152, and the psychiatrist directly responsible for the person's treatment shall not be held civilly or criminally liable for any action by a person released at the end of the 72 hours pursuant to this article.

(c) The peace officer responsible for the detainment of the person shall not be civilly or criminally liable for any action by a person released at or before the end of the 72 hours pursuant to this article.

SEC. 4. Section 5170.7 of the Welfare and Institutions Code is amended to read:

5170.7. A person who requests to be released from the facility before 72 hours have elapsed shall be released only if the psychiatrist directly responsible for the person's treatment believes, as a result of his or her personal observations, that the person is not a danger to others, or to himself or herself. If any other professional person who is authorized to release the person, believes the person should be released before 72 hours have elapsed, and the psychiatrist directly responsible for the person's treatment objects, the matter shall be referred to the medical director of the facility for the final decision. However, if the medical director is not a psychiatrist, he or she shall appoint a designee who is a psychiatrist. If the matter is referred, the person shall be released before 72 hours have elapsed only if the psychiatrist making the final decision believes, as a result of his or her personal observations, that the person is not a danger to others, or to himself or herself.

SEC. 5. Section 5172 of the Welfare and Institutions Code is amended to read:

5172. Each person admitted to a facility for 72-hour treatment and evaluation under the provisions of this article shall receive an evaluation as soon after he or she is admitted as possible and shall receive whatever treatment and care his or her condition requires for the full period that he or she is held. The person shall be released before 72 hours have elapsed only if, the psychiatrist directly responsible for the person's treatment believes, as a result of his or her personal observations, that the person no longer requires evaluation or treatment. If any other professional person who is authorized to release the person, believes the person should be released before 72 hours have elapsed, and the psychiatrist directly responsible for the person's treatment objects, the matter shall be referred to the medical director of the facility for the final decision. However, if the medical director is not a psychiatrist, he or she shall appoint a designee who is a psychiatrist. If the matter is referred, the

person shall be released before 72 hours have elapsed only if the psychiatrist making the final decision believes, as a result of his or her personal observations, that the person no longer requires evaluation or treatment.

Persons who have been detained for evaluation and treatment shall be released, referred for further care and treatment on a voluntary basis, or, if the person, as a result of impairment by chronic alcoholism, is a danger to others or to himself or herself, or gravely disabled, he or she may be certified for intensive treatment, or a conservator or temporary conservator shall be appointed for him or her pursuant to this part as required.

SEC. 6. Section 5173 of the Welfare and Institutions Code is amended to read:

5173. (a) Notwithstanding Section 5113, if the provisions of Section 5170.7 or 5172 have been met, the professional person in charge of the facility providing 72-hour treatment and evaluation, the medical director of the facility or his or her designee described in Sections 5170.7 and 5172, and the psychiatrist directly responsible for the person's treatment shall not be held civilly or criminally liable for any action by a person released before the end of 72 hours pursuant to this article.

(b) The professional person in charge of the facility providing 72-hour treatment and evaluation, the medical director of the facility or his or her designee described in Sections 5170.7 and 5172, and the psychiatrist directly responsible for the person's treatment shall not be held civilly or criminally liable for any action by a person released at the end of the 72 hours pursuant to this article.

(c) The peace officer responsible for the detainment of the person shall not be civilly or criminally liable for any action by a person released at or before the end of the 72 hours pursuant to this article.

SEC. 7. Section 5257 of the Welfare and Institutions Code is amended to read:

5257. During the 14-day additional treatment period, only if, the psychiatrist directly responsible for the person's treatment believes, as a result of his or her personal observations, that the person certified no longer is, as a result of mental disorder or impairment by chronic alcoholism, a danger to others, or to himself or herself, or gravely disabled, then the person's involuntary commitment shall end and the person shall be released. If any other professional person who is authorized to release the person, believes the person should be released during the 14-day additional treatment period, and the psychiatrist directly responsible for the person's treatment objects, the matter shall be referred to the medical director of the facility for the final decision. However, if the medical director is not a psychiatrist, he or she shall appoint a designee who is a psychiatrist. If the matter is referred, the person shall be released during the 14-day additional treatment period only if the psychiatrist making the final decision believes, as a result of his or her personal observations, that the person certified no longer is, as a result of

mental disorder or impairment by chronic alcoholism, a danger to others, or to himself or herself, or gravely disabled. Nothing herein shall prohibit either the person remaining at the facility on a voluntary basis or the facility from providing the person with appropriate referral information concerning mental health services.

Persons who have been certified for 14 days of intensive treatment, and who are not sooner released, shall not be involuntarily detained beyond 14 days unless one of the following applies:

(a) Persons to whom Article 6 (commencing with Section 5300) is applicable.

(b) Persons for whom a temporary conservator is appointed pursuant to Chapter 3 (commencing with Section 5350).

(c) Persons to whom Article 4.5 (commencing with Section 5260) is applicable.

SEC. 8. Section 5259.3 of the Welfare and Institutions Code is amended to read:

5259.3. (a) Notwithstanding Section 5113, if the provisions of Section 5257 have been met, the professional person in charge of the facility providing intensive treatment, his or her designee, the medical director of the facility or his or her designee described in Section 5257, and the psychiatrist directly responsible for the person's treatment shall not be held civilly or criminally liable for any action by a person released before the end of 14 days pursuant to this article.

(b) The professional person in charge of the facility providing intensive treatment, his or her designee, the medical director of the facility or his or her designee described in Section 5257, and the psychiatrist directly responsible for the person's treatment shall not be held civilly or criminally liable for any action by a person released at the end of the 14 days pursuant to this article.

(c) The attorney or advocate representing the person, the court-appointed commissioner or referee, the certification review hearing officer conducting the certification review hearing, and the peace officer responsible for the detainment of the person shall not be civilly or criminally liable for any action by a person released at or before the end of 14 days pursuant to this article.

SEC. 9. Section 5264 of the Welfare and Institutions Code is amended to read:

5264. A certification for imminently suicidal persons shall be for no more than 14 days of intensive treatment, and shall terminate only as soon as, the psychiatrist directly responsible for the person's treatment believes, as a result of his or her personal observations, that the individual has improved sufficiently for him to leave, or is prepared to accept voluntary treatment on referral or to remain in the facility providing intensive treatment on a voluntary basis. If any other professional person who is authorized to release the person, believes the person should be released before 14 days have elapsed, and the psychiatrist directly responsible for the person's treatment objects, the matter shall be referred to the medical director of the

facility for the final decision. However, if the medical director is not a psychiatrist, he or she shall appoint a designee who is a psychiatrist. If the matter is referred, the person shall be released before 14 days have elapsed only if the psychiatrist believes, as a result of his or her personal observations, that the individual has improved sufficiently for him or her to leave, or is prepared to accept voluntary treatment on referral or to remain in the facility providing intensive treatment on a voluntary basis.

Persons who have been certified for 14 days of intensive treatment under this article and to whom Section 5226.1 is not applicable, or with respect to whom the criminal charge has been dismissed under Section 5226.1, shall be released at the end of the 14 days unless any of the following applies:

(a) Patients who agree to receive further treatment on a voluntary basis.

(b) Patients recommended for conservatorship pursuant to Chapter 3 (commencing with Section 5350) of this part.

(c) Patients to whom Article 6 (commencing with Section 5300) of this chapter is applicable.

SEC. 10. Section 5267 of the Welfare and Institutions Code is amended to read:

5267. (a) Notwithstanding Section 5113, if the provisions of Section 5264 have been met, the professional person in charge of the facility providing intensive treatment, his or her designee, the medical director of the facility or his or her designee described in Section 5264, and the psychiatrist directly responsible for the person's treatment shall not be held civilly or criminally liable for any action by a person released before the end of 14 days pursuant to this article.

(b) The professional person in charge of the facility providing intensive treatment, his or her designee, the medical director of the facility or his or her designee described in Section 5264, and the psychiatrist directly responsible for the person's treatment shall not be held civilly or criminally liable for any action by a person released at the end of 14 days pursuant to this article.

SEC. 11. Section 5306 of the Welfare and Institutions Code is amended to read:

5306. (a) Notwithstanding Section 5113, if the provisions of Section 5309 have been met, the superintendent, the professional person in charge of the hospital providing 90-day involuntary treatment, the medical director of the facility or his or her designee described in subdivision (a) of Section 5309, and the psychiatrist directly responsible for the person's treatment shall not be held civilly or criminally liable for any action by a person released before the end of a 90-day period pursuant to this article.

(b) The superintendent, the professional person in charge of the hospital providing 90-day involuntary treatment, the medical director of the facility or his or her designee described in subdivision (a) of Section 5309, and the psychiatrist directly responsible for the

person's treatment shall not be held civilly or criminally liable for any action by a person released at the end of a 90-day period pursuant to this article.

SEC. 12. Section 5309 of the Welfare and Institutions Code is amended to read:

5309. (a) Nothing in this article shall prohibit the superintendent or professional person in charge of the hospital in which the person is being involuntarily treated from releasing him or her from treatment prior to the expiration of the commitment period when, the psychiatrist directly responsible for the person's treatment believes, as a result of his or her personal observations, that the person being involuntarily treated no longer constitutes a demonstrated danger of substantial physical harm to others. If any other professional person who is authorized to release the person, believes the person should be released prior to the expiration of the commitment period, and the psychiatrist directly responsible for the person's treatment objects, the matter shall be referred to the medical director of the facility for the final decision. However, if the medical director is not a psychiatrist, he or she shall appoint a designee who is a psychiatrist. If the matter is referred, the person shall be released prior to the expiration of the commitment period only if the psychiatrist making the final decision believes, as a result of his or her personal observations, that the person being involuntarily treated no longer constitutes a demonstrated danger of substantial physical harm to others.

(b) After actual notice to the public officer, pursuant to Section 5114, and to counsel of the person named in the petition, to the court, and to the county mental health director, the plan for unconditional release shall become effective within five judicial days unless a court hearing on that action is requested by any of the aforementioned parties, in which case the unconditional release shall not take effect until approved by the court after a hearing. This hearing shall be held within five judicial days of the actual notice required by this subdivision.

SEC. 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 apply at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1289

An act to amend Sections 4762, 40501, 41103, and 42007 of, and to add Section 42201.6 to, the Vehicle Code, relating to vehicles.

[Approved by Governor September 30, 1985. Filed with Secretary of State September 30, 1985.]

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

SECTION 1. Section 4762 of the Vehicle Code is amended to read:

4762. The department shall remit all bail collected, after deducting the administrative fee authorized by Section 4763, for each notice of violation for which bail has been collected pursuant to Section 4760, to each jurisdiction in the amounts due to each jurisdiction according to its unadjudicated notices of violation. Within 45 days from the time bail is recorded by the department, the department shall inform each jurisdiction of which of its notices have been discharged by deposit of the appropriate amounts of bail.

SEC. 2. Section 40501 of the Vehicle Code is amended to read:

40501. The time specified in the notice to appear shall be a specific date which is at least 21 days after the arrest, except that the court having jurisdiction over the offense charged may authorize the arresting officer to specify on the notice that an appearance may be made before the time specified.

SEC. 3. Section 41103 of the Vehicle Code is amended to read:

41103. (a) The method of giving notice for purposes of Section 41102 is as follows:

(1) During the time of the violation, a notice of violation shall be securely attached to the vehicle setting forth the violation, including reference to the section of this code or of the local ordinance or federal statute or regulation violated, the approximate time of violation, the location where the violation occurred, and the license number and expiration date, the color of the vehicle, and, if possible, the year, make, and model of the vehicle. The notice shall specify a time and place for appearance by the registered owner or the lessee or renter in answer to the notice.

(2) The notice shall be attached to the vehicle so as to be easily observed by the person in charge of the vehicle upon the person's return.

Upon request, by mail or in person, the agency issuing or adjudicating the notice of violation or the court shall provide the person charged or his or her agent a copy of the original notice of violation within 15 days of the request for a fee sufficient to recover the actual cost of providing this service, not to exceed one dollar ($1). A failure to comply with this request shall result in a dismissal of the charge. If the description of the vehicle on the notice of violation does not match the corresponding information on the registration card for that vehicle, the court or agency may, on written request of the person charged, dismiss the charge without the necessity of an appearance by that person.

(b) Before any notice of noncompliance may be forwarded to the department under Section 41103.5 or any warrant for the arrest of a

resident of this state may be issued following the filing of a complaint charging a violation involving the standing or parking of a vehicle, a notice of the parking violation shall be given to the person charged. The notice of parking violation shall contain the information required by subdivision (a) and by Section 40309.5, and shall also inform the registered owner or the lessee or renter that, unless he or she sends the amount of the original bail by mail to, or pays it in person to, the person authorized to receive deposits of bail, or appears in the court designated in the notice within 30 days after service of the notice and answers the charge, or completes and files an affidavit of nonownership, the renewal of the vehicle registration is contingent upon compliance with the notice of a parking violation and that, failing compliance, a warrant or citation to appear may be issued against him or her.

The notice of parking violation shall contain or be accompanied by an unexecuted affidavit of nonownership. In addition to any other required information, the notice shall also provide information as to what constitutes nonownership, information as to the effect of executing that affidavit, and instructions for mailing or returning the affidavit to the court. Upon receipt of evidence satisfactory to the court that the person charged with violating Section 41102 has made a bona fide sale or transfer of the vehicle and has delivered possession of it to the purchaser prior to the date of the alleged violation, the court shall obtain verification from the department that the person charged has complied with the requirements of subdivision (a) or (b) of Section 5602, and, if so, the charges against the person under Section 41102 shall be dismissed. Upon return of the notice to the court with any indication that the notice has not been delivered to the person charged, the court shall, before issuing any warrant of arrest for a resident of this state, inquire of the department as to whether or not the person charged has complied with the requirements of subdivision (a) or (b) of Section 5602, and, if so, the charges against the person under Section 41102 and the charges against the person under any provision of this code governing the standing or parking of a vehicle, any federal statute or regulation, or any ordinance enacted by local authorities, shall be dismissed.

The notice of parking violation shall be given, either by personal delivery to the owner, lessee, or renter, or by mail, postage prepaid, addressed to the owner, lessee, or renter at the address as shown by the records of the department or the leasing or renting agency. The giving of notice by personal delivery is complete upon delivery of a copy of the notice to that person. The giving of notice by mail is complete upon the expiration of 10 days after the mailing of the notice.

Proof of giving the notice may be made by the certificate of any traffic or police officer or affidavit of any person over 18 years of age naming the person to whom the notice was given and specifying the time, place, and manner of the giving.

(c) Before any warrant for the arrest of a nonresident of this state

may be issued following the filing of a complaint charging a violation involving the standing or parking of a vehicle, a notice of parking violation shall be given to the person charged. The notice shall contain the information required by subdivision (a) and shall also inform the registered owner or the lessee or renter that, unless he or she appears in the court designated in the notice within 30 days after service of the notice and answers the charge, or completes and files an affidavit of nonownership, a warrant will be issued against him or her.

SEC. 4. Section 42007 of the Vehicle Code is amended to read:

42007. (a) Upon the order of a majority of the judges or the sole judge of a superior, municipal or justice court, the clerk of the court shall collect a uniform fee from every person ordered or permitted to attend a school pursuant to Section 42005 or attending any other court-supervised program of driving instruction. The fee shall be commensurate with the cost incurred by the court in carrying out Section 42005 or in supervising any other similar program, but may not exceed twelve dollars ($12), including any penalty assessment, per person. The fee may not include the cost, or any part thereof, of instruction offered by the school or other program.

(b) Revenues derived from the fee collected under subdivision (a) shall be deposited by the clerk in accordance with Section 68084 of the Government Code. The county board of supervisors may use these funds for any county purpose.

(c) No fee other than that authorized by subdivision (a) may be imposed by the court on any person ordered or permitted to attend a school or program under subdivision (a).

(d) As used in this section, "court-supervised program" includes, but is not limited to, any program of driving instruction the successful completion of which is accepted by the court in lieu of adjudicating a violation of this code.

SEC. 5. Section 42201.6 is added to the Vehicle Code, to read:

42201.6. (a) A deposit of bail received with respect to an infraction violation of any provision of this code, including, but not limited to, a violation involving the standing or parking of a vehicle shall be refunded by the agency which issued the notice of violation or the court within 30 days of a dismissal or a finding of not guilty of the offense charged.

(b) Multiple or duplicate deposits of bail shall be identified by the court or agency and refunded within 30 days of identification.

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. 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 1290

An act to amend Sections 31751 and 32000 of, to add Section 30503 to, and to repeal Section 31750 of, the Food and Agricultural Code, relating to animals.

[Approved by Governor September 30, 1985. Filed with Secretary of State September 30, 1985]

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

SECTION 1. Section 30503 is added to the Food and Agricultural Code, to read:

30503. (a) No public pound, society for the prevention of cruelty to animals shelter, or humane shelter shall sell or give away any dog that has not been spayed or neutered, unless a deposit for spaying or neutering the dog has been tendered to the pound or shelter. The deposit shall be in the amount determined by the pound or shelter to be comparable to the lowest fee charged by veterinarians in the locale, but shall not exceed forty dollars ($40). A veterinarian shall perform the operation. If a female dog and her puppies are sold or given away to one individual, only a single deposit shall be required. The pound or shelter may make appropriate arrangements for the spaying or neutering of the dog, or may return the deposit to the person purchasing or receiving the dog upon presentation of a written statement or receipt from the veterinarian or clinic that the dog has been spayed or neutered. The deposit may also include an amount necessary to recover any additional costs under this section.

(b) Any dog over six months of age at the time it is sold or given away by the pound or shelter shall be spayed or neutered within 60 days, or the deposit shall be deemed unclaimed. Any dog six months of age or younger at the time it is sold or given away by the pound or shelter shall be spayed or neutered within six months, or the deposit shall be deemed unclaimed.

(c) Any deposit not claimed under subdivision (a) shall be used only for the following purposes:

(1) A public education program to prevent overpopulation of dogs and cats.

(2) A program to spay or neuter dogs and cats.

(3) A followup program to assure that animals sold or given away by the pound or shelter are spayed or neutered.

(4) Any additional costs incurred under this section.

(d) Public pounds, society for the prevention of cruelty to animals shelters, and humane shelters may enter into cooperative agreements with each other and with veterinarians in carrying out

this section.

SEC. 2. Section 31750 of the Food and Agricultural Code is repealed.

SEC. 3. Section 31751 of the Food and Agricultural Code is amended to read:

31751. (a) No public pound, society for the prevention of cruelty to animals shelter, or humane shelter shall sell or give away any cat that has not been spayed or neutered, unless a deposit for spaying or neutering the cat has been tendered to the pound or shelter. The deposit shall be in the amount determined by the pound or shelter to be comparable to the lowest fee charged by veterinarians in the locale, but shall not exceed thirty dollars ($30). A veterinarian shall perform the operation. If a female cat and her kittens are sold or given away to one individual, only a single deposit shall be required. The pound or shelter may make appropriate arrangements for the spaying or neutering of the cat, or may return the deposit to the person purchasing or receiving the cat upon presentation of a written statement or receipt from the veterinarian or clinic that the cat has been spayed or neutered. The deposit may also include the amount necessary to recover any additional costs under this section.

(b) All cats over six months of age at the time they are sold or given away by the pound or shelter shall be spayed or neutered within 60 days, or the deposit shall be deemed unclaimed. All cats six months of age or younger at the time they are sold or given away by the pound or shelter shall be spayed or neutered within six months, or the deposit shall be deemed unclaimed.

(c) Any deposits not claimed under subdivision (a) shall be used only for the following purposes:

(1) A public education program to prevent overpopulation of cats and dogs.

(2) A program to spay or neuter cats and dogs.

(3) A followup program to assure that animals sold or given away by the pound or shelter are spayed or neutered.

(4) Any additional costs incurred under this section.

(d) Public pounds, society for the prevention of cruelty to animals shelters, and humane shelters may enter into cooperative agreements with each other and with veterinarians in carrying out this section.

SEC. 4. Section 32000 of the Food and Agricultural Code is amended to read:

32000. The selling or giving away of any animal to any facility subject to the provision of Public Law 89, Chapter 544, of the 89th Congress, Second Session (7 U.S.C. Sec. 2131 et seq.) shall be conditioned upon compliance by the facility with the provisions of that law, and that selling or giving away shall be exempt from Sections 30503 and 31751.

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, and other 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 1291

An act to amend Section 1950.5 of the Civil Code, relating to landlord and tenant.

[Approved by Governor September 30, 1985. Filed with Secretary of State September 30, 1985.]

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

SECTION 1. Section 1950.5 of the Civil Code is amended to read:

1950.5. (a) The provisions of this section shall apply to security for a rental agreement for residential property, that is, property used as the dwelling of the tenant.

(b) As used in this section, "security" means any payment, fee, deposit or charge, including, but not limited to, an advance payment of rent, used or to be used for any purpose, including, but not limited to, any of the following:

(1) The compensation of a landlord for a tenant's default in the payment of rent.

(2) The repair of damages to the premises caused by the tenant.

(3) The cleaning of the premises upon termination of the tenancy.

(c) A landlord may not demand or receive security, however denominated, in an amount or value in excess of an amount equal to two months' rent, in the case of unfurnished residential property, and an amount equal to three months' rent in the case of furnished residential property, in addition to any rent for the first month paid on or before initial occupancy. This subdivision does not prohibit an advance payment of not less than six months' rent where the term of the lease is six months or longer.

This subdivision does not preclude a landlord and a tenant from entering into a mutual agreement for the landlord, at the request of the tenant and for a specified fee or charge, to make structural, decorative, furnishing, or other similar alterations, other than that cleaning or repairing for which the landlord may charge the previous tenant as provided by subdivision (e).

(d) Any security shall be held by the landlord for the tenant who is party to such lease or agreement. The claim of a tenant to the security shall be prior to the claim of any creditor of the landlord.

(e) The landlord may claim of the security only those amounts as are reasonably necessary to remedy tenant defaults in the payment

of rent, to repair damages to the premises caused by the tenant, exclusive of ordinary wear and tear, or to clean the premises, if necessary, upon termination of the tenancy. No later than two weeks after the tenant has vacated the premises, the landlord shall furnish the tenant with an itemized written statement of the basis for, and the amount of, any security received and the disposition of the security and shall return any remaining portion of the security to the tenant.

(f) Upon termination of the landlord's interest in the dwelling unit in question, whether by sale, assignment, death, appointment of receiver or otherwise, the landlord or the landlord's agent shall, within a reasonable time, do one of the following acts, either of which shall relieve the landlord of further liability with respect to the security held:

(1) Transfer the portion of the security remaining after any lawful deductions made under subdivision (e) to the landlord's successor in interest, and thereafter notify the tenant by personal delivery or certified mail of the transfer, of any claims made against the security, of the amount of the security deposited, and of the names of the successors in interest, their address, and their telephone number. If the notice to the tenant is made by personal delivery, the tenant shall acknowledge receipt of the notice and sign his or her name on the landlord's copy of the notice.

(2) Return the portion of the security remaining after any lawful deductions made under subdivision (e) to the tenant, together with an accounting as provided in subdivision (e).

(g) Prior to the voluntary transfer of a landlord's interest in a dwelling unit the landlord shall deliver to the landlord's successor in interest a statement indicating the following:

(1) The security remaining after any lawful deductions are made.

(2) His or her election under paragraph (1) or (2) of subdivision (f).

Nothing in this subdivision shall affect the validity of title to the real property transferred in violation of the provisions of this subdivision.

(h) In the event of noncompliance with subdivision (f), the landlord's successors in interest shall be jointly and severally liable with the landlord for repayment of the security, or that portion thereof to which the tenant is entitled, when and as provided in subdivisions (e) and (f). A successor in interest of a landlord may not require the tenant to post any security to replace that amount not transferred to the tenant or successors in interest as provided in subdivision (f), unless and until the successor in interest first makes restitution of the initial security as provided in paragraph (2) of subdivision (f) or provides the tenant with an accounting as provided in subdivision (e).

Nothing in this subdivision shall preclude a successor in interest from recovering from the tenant compensatory damages that are in excess of the security received from the landlord previously paid by

the tenant to the landlord.

(i) Notwithstanding subdivision (h), if upon inquiry and reasonable investigation, a landlord's successor in interest has a good faith belief that the lawfully remaining security deposit is transferred to him or her or returned to the tenant pursuant to subdivision (f), he or she shall not be liable for damages as provided in subdivision (k), or any security not transferred pursuant to subdivision (f).

(j) Upon receipt of any portion of the security under paragraph (1) of subdivision (f), the landlord's successors in interest shall have all of the rights and obligations of a landlord holding such security with respect to the security.

(k) The bad faith claim or retention by a landlord or the landlord's successors in interest of the security or any portion thereof, in violation of this section or the bad faith demand of replacement security in violation of subdivision (h), may subject the landlord or the landlord's successors in interest to damages not to exceed two hundred dollars ($200), in addition to any actual damages. In any action under this section, the landlord or the landlord's successors in interest shall have the burden of proof as to the reasonableness of the amounts claimed or the authority pursuant to this section to demand additional security deposits.

(*l*) No lease or rental agreement shall contain any provision characterizing any security as "nonrefundable."

(m) Any action under this section may be maintained in small claims court if the damages claimed, whether actual or punitive or both, are within the jurisdictional amount allowed by Section 116.2 of the Code of Civil Procedure.

(n) Proof of the existence of and the amount of a security deposit may be established by any credible evidence, including, but not limited to, a canceled check, a receipt, a lease indicating the requirement of a deposit as well as the amount, prior consistent statements or actions of the landlord or tenant, or a statement under penalty of perjury which satisfies the credibility requirements set forth in Section 780 of the Evidence Code.

(o) To the extent that this section is a recodification of the provisions of Chapter 1317 of the Statutes of 1970, as amended by Chapter 618 of the Statutes of 1972, this section became operative on January 1, 1971, and shall apply only to payments or deposits made on or after that date.

The amendments made to the law, as effective on January 1, 1977, by the enactment of this section in the 1977–78 Legislative Session, exclusive of subdivision (e), shall be applicable to all tenancies, leases, or rental agreements for residential property created or renewed on or after January 1, 1978.

Subdivision (e) of this section shall be applicable to all tenancies, leases, or rental agreements for residential property terminated on or after January 1, 1978.

SEC. 2. Section 1950.5 of the Civil Code is amended to read:

1950.5. (a) The provisions of this section shall apply to security

for a rental agreement for residential property, that is, property used as the dwelling of the tenant.

(b) As used in this section, "security" means any payment, fee, deposit or charge, including, but not limited to, an advance payment of rent, used or to be used for any purpose, including, but not limited to, any of the following:

(1) The compensation of a landlord for a tenant's default in the payment of rent.

(2) The repair of damages to the premises caused by the tenant or by a guest or licensee of the tenant.

(3) The cleaning of the premises upon termination of the tenancy.

(c) A landlord may not demand or receive security, however denominated, in an amount or value in excess of an amount equal to two months' rent, in the case of unfurnished residential property, and an amount equal to three months' rent in the case of furnished residential property, in addition to any rent for the first month paid on or before initial occupancy. This subdivision does not prohibit an advance payment of not less than six months' rent where the term of the lease is six months or longer.

This subdivision does not preclude a landlord and a tenant from entering into a mutual agreement for the landlord, at the request of the tenant and for a specified fee or charge, to make structural, decorative, furnishing, or other similar alterations, if the alterations are other than cleaning or repairing for which the landlord may charge the previous tenant as provided by subdivision (e).

(d) Any security shall be held by the landlord for the tenant who is party to the lease or agreement. The claim of a tenant to the security shall be prior to the claim of any creditor of the landlord.

(e) The landlord may claim of the security only those amounts as are reasonably necessary to remedy tenant defaults in the payment of rent, to repair damages to the premises caused by the tenant, exclusive of ordinary wear and tear, or to clean the premises, if necessary, upon termination of the tenancy. The landlord may not assert a claim against the tenant or the security for damages to the premises or any defective conditions that preexisted the tenancy, for ordinary wear and tear or the effects thereof, whether the wear and tear preexisted the tenancy or occurred during the tenancy, or for the cumulative effects of ordinary wear and tear occurring during any one or more tenancies.

(f) No later than two weeks after the tenant has vacated the premises, the landlord shall furnish the tenant with an itemized written statement of the basis for, and the amount of, any security received and the disposition of the security and shall return any remaining portion of the security to the tenant.

(g) Upon termination of the landlord's interest in the dwelling unit in question, whether by sale, assignment, death, appointment of receiver or otherwise, the landlord or the landlord's agent shall, within a reasonable time, do one of the following acts, either of which shall relieve the landlord of further liability with respect to the

security held:

(1) Transfer the portion of the security remaining after any lawful deductions made under subdivision (e) to the landlord's successor in interest, and thereafter notify the tenant by personal delivery or certified mail of the transfer, of any claims made against the security, of the amount of the security deposited, and of the names of the successors in interest, their address, and their telephone number. If the notice to the tenant is made by personal delivery, the tenant shall acknowledge receipt of the notice and sign his or her name on the landlord's copy of the notice.

(2) Return the portion of the security remaining after any lawful deductions made under subdivision (e) to the tenant, together with an accounting as provided in subdivision (f).

(h) Prior to the voluntary transfer of a landlord's interest in a dwelling unit the landlord shall deliver to the landlord's successor in interest a statement indicating the following:

(1) The security remaining after any lawful deductions are made.

(2) His or her election under paragraph (1) or (2) of subdivision (g).

Nothing in this subdivision shall affect the validity of title to the real property transferred in violation of the provisions of this subdivision.

(i) In the event of noncompliance with subdivision (g), the landlord's successors in interest shall be jointly and severally liable with the landlord for repayment of the security, or that portion thereof to which the tenant is entitled, when and as provided in subdivisions (e) and (f). A successor in interest of a landlord may not require the tenant to post any security to replace that amount not transferred to the tenant or successors in interest as provided in subdivision (g), unless and until the successor in interest first makes restitution of the initial security as provided in paragraph (2) of subdivision (g) or provides the tenant with an accounting as provided in subdivision (f).

Nothing in this subdivision shall preclude a successor in interest from recovering from the tenant compensatory damages that are in excess of the security received from the landlord previously paid by the tenant to the landlord.

Notwithstanding the provisions of this subdivision, if upon inquiry and reasonable investigation, a landlord's successor in interest has a good faith belief that the lawfully remaining security deposit is transferred to him or her or returned to the tenant pursuant to subdivision (g), he or she shall not be liable for damages as provided in subdivision (k), or any security not transferred pursuant to subdivision (g).

(j) Upon receipt of any portion of the security under paragraph (1) of subdivision (g), the landlord's successors in interest shall have all of the rights and obligations of a landlord holding the security with respect to the security.

(k) The bad faith claim or retention by a landlord or the landlord's

successors in interest of the security or any portion thereof, in violation of this section or the bad faith demand of replacement security in violation of subdivision (i), may subject the landlord or the landlord's successors in interest to damages not to exceed two hundred dollars ($200), in addition to any actual damages, plus, from and after January 1, 1987, interest on the security, or remaining portion thereof, at the rate of 2 percent per month from the due date until paid. In any action under this section, the landlord or the landlord's successors in interest shall have the burden of proof as to the reasonableness of the amounts claimed or the authority pursuant to this section to demand additional security deposits.

(*l*) No lease or rental agreement shall contain any provision characterizing any security as "nonrefundable."

(m) Any action under this section may be maintained in small claims court if the damages claimed, whether actual or punitive or both, are within the jurisdictional amount allowed by Section 116.2 of the Code of Civil Procedure.

(n) Proof of the existence of and the amount of a security deposit may be established by any credible evidence, including, but not limited to, a canceled check, a receipt, a lease indicating the requirement of a deposit as well as the amount, prior consistent statements or actions of the landlord or tenant, or a statement under penalty of perjury which satisfies the credibility requirements set forth in Section 780 of the Evidence Code.

(o) The amendments to this section made during the 1985 portion of the 1985–86 Regular Session of the Legislature which are set forth in subdivision (e) are declaratory of existing law.

SEC. 3. Section 2 of this bill incorporates amendments to Section 1950.5 of the Civil Code proposed by both this bill and AB 2289. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 1950.5 of the Civil Code, and (3) this bill is enacted after AB 2289, in which case Section 1 of this bill shall not become operative.

CHAPTER 1292

An act to amend Section 2982.8 of the Civil Code, relating to automobile sales.

[Approved by Governor September 30, 1985. Filed with Secretary of State September 30, 1985.]

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

SECTION 1. Section 2982.8 of the Civil Code is amended to read:

2982.8. (a) If a buyer is obligated under the terms of the conditional sale contract to maintain insurance on the vehicle and subsequent to the execution of the contract the buyer either fails to

maintain or requests the holder to procure such insurance, any amounts advanced by the holder to procure such insurance may be the subject of finance charges from the date of advance as provided in subdivision (d). Such amounts shall be secured as provided in the contract and permitted by Section 2984.2 if the holder notifies the buyer in writing of his or her option to repay such amounts in any one of the following ways:

(1) Full payment within 10 days from the date of giving or mailing the notice.

(2) Full amortization during the term of the insurance.

(3) If offered by the holder, any other amortization plan.

If the buyer neither pays in full the amounts advanced nor notifies the holder in writing of his or her choice regarding amortization options before the expiration of 10 days from the date of giving or mailing the notice by the holder, the holder shall amortize the amounts advanced on a secured basis pursuant to paragraph (2).

(b) The written notification described in subdivision (a) shall also set forth the amounts advanced by the holder and, with respect to each amortization plan the amount of the additional finance charge, the sum of the amounts advanced and the additional finance charge, the number of installments required, the amount of each installment and the date for payment of the installments.

In addition, the notice shall contain a statement in contrasting red print in at least eight-point bold type, which reads as follows:

"WARNING - IT IS YOUR RESPONSIBILITY UNDER CALIFORNIA LAW TO OBTAIN LIABILITY INSURANCE OR BE SUBJECT TO PENALTIES FOR VIOLATING SECTION 16020 OF THE VEHICLE CODE, WHICH MAY INCLUDE LOSS OF LICENSE OR A FINE. THE INSURANCE ACQUIRED BY THE LIENHOLDER DOES NOT PROVIDE LIABILITY COVERAGE AND DOES NOT SATISFY YOUR RESPONSIBILITY UNDER CALIFORNIA LAW."

(c) If subsequent to the execution of the contract the holder advances amounts for repairs to or preservation of the motor vehicle or preservation of the holder's security interest therein and such advances are occasioned by the buyer's default under the contract, such advances may be the subject of finance charges from the date of advance as provided in subdivision (d) and shall be secured as provided in the contract and permitted by Section 2984.2.

(d) The maximum rate of finance charge which may be imposed on amounts advanced by the holder subsequent to the execution of the contract for insurance, repairs to or preservation of the motor vehicle, or preservation of the holder's security interest therein, shall not exceed the annual percentage rate disclosed pursuant to Section 2982.

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 1293

An act to amend Section 14088.1 of, and to repeal Section 14088.8 of, the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 30, 1985. Filed with Secretary of State September 30, 1985.]

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

SECTION 1. Section 14088.1 of the Welfare and Institutions Code is amended to read:

14088.1. The department or a county which has contracted for the provision of services pursuant to this article may, within geographical areas designated by the department, enter into contracts with primary care providers. The contracts shall be on a capitated rate or risk sharing basis, or a combination of both. The rate of payment for services shall not vary solely according to the category of licensure of the facility in which the services are rendered by providers within each geographical area. The rate of payment established under the contract shall not exceed the total per capita amount which the department estimates would be payable for all services and requirements covered under the contract if all such services and requirements were to be furnished Medi-Cal beneficiaries under the Medi-Cal fee-for-service program except that, for a period of two years after the effective date of Senate Bill 2012, as enacted during the 1981–82 Regular Session, reimbursement may include an additional amount to a primary care provider who enters into a contract for providing case management services.

Prior to entering into any contract for primary care case management under this chapter, the department shall provide public notice of its intent to enter into such a contract. Furthermore, the department shall develop specific criteria for evaluating potential contractors which ensure that all types of primary care providers are given equal consideration in the contractor selection process.

SEC. 2. Section 14088.8 of the Welfare and Institutions Code is repealed.

SEC. 3. This act shall become operative on July 1, 1986.

CHAPTER 1294

An act to amend Sections 113, 25816, and 25817 of, and to add Sections 25816.1 and 25817.1 to, the Health and Safety Code, relating to radiation control.

[Approved by Governor September 30, 1985 Filed with Secretary of State September 30, 1985.]

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

SECTION 1. Section 113 of the Health and Safety Code is amended to read:

113. (a) The fees or charges for the issuance or renewal of any permit, license, or registration pursuant to Sections 436.53, 543, 544, 545, 546, 547, 1616, 1676, 1677, 4042, 4042.2, 4042.3, 11887, 25198.7, 25694, 25696, 25697, 25816, 25817, 26688, 27010, 27011, 28126, 28410, 28411, and 28702 shall be adjusted annually by the percentage change printed in the Budget Act for those items appropriating funds to the department. After the first annual adjustment of fees or charges pursuant to this section, the fees or charges subject to subsequent adjustment shall be the fees or charges for the prior calendar year. The percentage change shall be determined by the Department of Finance, and shall include at least the total percentage change in salaries and operating expenses of the department. However, the total increase in amounts collected under this section shall not exceed the total increased cost of the program or service provided.

(b) The department shall publish annually a list of the actual numerical fee charges for each permit, license, certification, or registration governed by this section. This adjustment of fees and publication of the fee list shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 2. Section 25816 of the Health and Safety Code is amended to read:

25816. (a) The department shall provide by regulation a schedule of the fees which shall be paid by applicants for the licensing of radioactive materials and of devices and equipment utilizing these materials. The revenues derived from the fees shall be used, together with other funds made available therefor, for the purpose of the issuance of licenses and the inspection and regulation of the licensees.

(b) A local agency participating in a negotiated agreement pursuant to Section 25810 shall be fully reimbursed for direct and indirect costs based upon activities governed by Section 25816.1. With respect to these agreements, any salaries, benefits, and other indirect costs shall not exceed comparable costs of the department. Any changes in the frequency of inspections or the level of reimbursement of local agencies made by this section and Section

25816.1 during the 1985–86 Regular Session shall not affect ongoing contracts.

(c) The fees for licenses for radioactive materials and of devices and equipment utilizing those materials shall be adjusted annually pursuant to Section 113.

SEC. 3. Section 25816.1 is added to the Health and Safety Code, to read:

25816.1. The frequency of inspections of radioactive materials shall be based on priorities established by the United States Nuclear Regulatory Commission.

SEC. 4. Section 25817 of the Health and Safety Code is amended to read:

25817. (a) The department shall provide by regulation a ranking of priority for inspection, as determined by the degree of potentially damaging exposure of persons by ionizing radiation, and a schedule of fees, based upon such priority ranking, which shall be paid by persons possessing sources of ionizing radiation which are subject to registration in accordance with subdivision (b) of Section 25815, and regulations adopted pursuant thereto. The revenues derived from the fees shall be used, together with other funds made available therefor, for the purpose of carrying out any inspections of the sources of ionizing radiation required by this chapter or regulations adopted pursuant thereto. The fees shall, together with any other funds made available to the department, be sufficient to cover the costs of administering this chapter, and shall be set in amounts intended to cover the costs of administering this chapter for each priority source of ionizing radiation but, during the 1986–87 fiscal year, shall not exceed eighty-five dollars ($85) annually for each high-priority source of ionizing radiation, sixty-two dollars ($62) annually for each medium-priority source of ionizing radiation, and twenty-eight dollars ($28) annually for each source of ionizing radiation used in dentistry. Revenues generated by the fees shall not offset any general funds appropriated for the support of the radiologic programs authorized pursuant to Chapter 7.4 (commencing with Section 25660) and Chapter 7.6 (commencing with Section 25800) of this division. Persons who pay fees shall not be required to pay, directly or indirectly, for the share of the costs of administering this chapter of those persons for whom fees are waived.

(b) A local agency participating in a negotiated agreement pursuant to Section 25810 shall be fully reimbursed for direct and indirect costs based upon activities governed by Section 25817.1. With respect to these agreements, any salaries, benefits, and other indirect costs shall not exceed comparable costs of the department. Any changes in the frequency of inspections or the level of reimbursement to local agencies made by this section or Section 25817.1 during the 1985–86 Regular Session shall not affect ongoing contracts.

(c) The fees paid by persons possessing sources of ionizing

radiation shall be adjusted annually pursuant to Section 113.

SEC. 5. Section 25817.1 is added to the Health and Safety Code, to read:

25817.1. The average inspection frequency for ionizing radiation machines shall be once every three years for high priority sources of ionizing radiation, and once every four and one-quarter years for medium-priority sources. Sources of ionizing radiation used in dentistry shall be screened for defects by mail or other offsite methodology not less frequently than once every five years, with physical inspection of the 50 percent, determined by the department to be most in need of inspection, to average at least once every six years.

CHAPTER 1295

An act to amend Sections 5604, 5715, and 5764 of, to amend and renumber Sections 5604.1, 5604.5, 5605, and 5606 of, to repeal Section 5606.1 of, and to add Sections 5604.5, 5605.1, 5605.2, and 5605.4 to, the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 30, 1985. Filed with Secretary of State September 30, 1985.]

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

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

5604. (a) Each community mental health service shall have an advisory board of 17 members appointed by the governing body except that such boards in counties with a population of less than 100,000 may have a minimum of 11 members. One member of the advisory board shall be a member of the local governing body. Not less than 51 percent of the members of the advisory board shall be persons representative of the public interest in mental health. However not less than one-half of the members representing the public interest shall be persons or the parents, spouse, sibling, or adult children of persons, who have received mental health services from a city or county Short-Doyle program or any of its contract agencies, a state hospital, or any public or private nonprofit mental health agency. At least one member shall be a person who has received or is receiving these mental health services. The advisory board shall contain two physicians, one of whom shall specialize in psychiatry, and the remaining members shall be selected from among the following mental health professions: psychology, social work, nursing, marriage and family counseling, psychiatric technology, and hospital or community mental health facility administration. No more than one appointee from each of these professions shall be selected. Persons in the professions of education,

law, criminal justice, and fiscal management may be considered as representatives of the general public. For members representing the public interest, the governing body shall appoint persons representing different disciplines.

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

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

(d) No member of the advisory board or his or her spouse shall be a full-time or part-time county employee of a county mental health service, an employee of the State Department of Mental Health, or an employee of, or a member of the governing body of, a Short-Doyle contract agency.

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

(f) The composition of the mental health advisory board shall reflect the minority population found in the county. A statement shall be included in the mental health plan or contract as to the ways equitable representation will be achieved and a timetable for achieving equitable representation.

SEC. 2. Section 5604.1 of the Welfare and Institutions Code is amended and renumbered to read:

5605. There is hereby established an Organization of Mental Health Advisory Boards, which shall have the powers and authority necessary to carry out the duties imposed upon it by this chapter, including, but not limited to, the following:

(a) To provide coordination, consultation, and training for local

mental health advisory boards. The State Department of Mental Health shall provide by contract for the support of this requirement.

(b) To advise the Citizens Advisory Council, the California Conference of Local Mental Health Directors, and the Legislature.

(c) To provide a forum for local mental health advisory boards to discuss problems, exchange information, and improve coordination.

(d) To advise the State Department of Mental Health as to those areas within the purview of the Organization of Mental Health Advisory Boards.

(e) To fix the salaries of personnel employed which reflect their levels of responsibility and required duties.

SEC. 2.5. Section 5604.1 of the Welfare and Institutions Code, as amended by Assembly Bill No. 1856 of the 1985–86 Regular Session of the Legislature, is amended and renumbered to read:

5605. There is hereby established an Organization of Mental Health Advisory Boards, which shall have the powers and authority necessary to carry out the duties imposed upon it by this chapter, including, but not limited to, the following:

(a) To provide coordination, consultation, and training for local mental health advisory boards. The State Department of Mental Health shall provide by contract for the support of this requirement.

(b) To advise the California Council on Mental Health, the California Conference of Local Mental Health Directors, and the Legislature.

(c) To provide a forum for local mental health advisory boards to discuss problems, exchange information, and improve coordination.

(d) To advise the State Department of Mental Health as to those areas within the purview of the Organization of Mental Health Advisory Boards.

(e) To fix the salaries of personnel employed which reflect their levels of responsibility and required duties.

SEC. 3. Section 5604.5 of the Welfare and Institutions Code is amended and renumbered to read:

5604.3. The board of supervisors may pay from any available funds the actual and necessary expenses of the members of the advisory board of a community mental health service incurred incident to the performance of their official duties and functions. The expenses may include travel, lodging, child care, and meals for the members of such an advisory board while on official business as may be approved by the director of the local mental health program.

SEC. 4. Section 5604.5 is added to the Welfare and Institutions Code, to read:

5604.5. The local mental health advisory board shall develop bylaws to be approved by the governing body which shall:

(a) Establish the specific number of members on the mental health advisory board if the county has a population of less than 100,000.

(b) Ensure that the composition of the Mental Health Advisory Board represents the demographics of the county as a whole.

(c) Establish that a quorum be one person more than one-half of the appointed members.

(d) Establish that the chairperson of the mental health advisory board be in consultation with the local mental health director.

(e) Establish that there may be an executive committee of the mental health advisory board and that the elected representative to the Organization of Mental Health Advisory Boards be on that committee.

(f) Establish that the chair or other member be elected to represent that board to the Organization of Mental Health Advisory Boards.

(g) Define the responsibilities of the representative to the Organization of Mental Health Advisory Boards.

SEC. 5. Section 5605 of the Welfare and Institutions Code is amended and renumbered to read:

5604.1. Local mental health advisory boards shall be subject to the provisions of Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code, relating to meetings of local agencies.

SEC. 6. Section 5605.1 is added to the Welfare and Institutions Code, to read:

5605.1. The Organization of Mental Health Advisory Boards is composed of an elected representative of each local mental health advisory board. Each local mental health advisory board shall elect its chair or a member to represent that board to the Organization of Mental Health Advisory Boards.

SEC. 7. Section 5605.2 is added to the Welfare and Institutions Code, to read:

5605.2. All departments of state government, as well as each facility named in the county Short-Doyle plan, are encouraged to cooperate with, and provide such information, records, documents, and studies as the Organization of Mental Health Advisory Boards may request.

SEC. 8. Section 5605.4 is added to the Welfare and Institutions Code, to read:

5605.4. The Organization of Mental Health Advisory Boards may contract for additional technical assistance with any public or private agency or individual to carry out planning, monitoring, evaluation, and other responsibilities under this division. All personnel employed by the Organization of Mental Health Advisory Boards shall be solely responsible, organizationally and administratively, to the Organization of Mental Health Advisory Boards. The Organization of Mental Health Advisory Boards shall have the responsibility for the selection, hiring, and supervision of all personnel.

SEC. 9. Section 5606 of the Welfare and Institutions Code is amended and renumbered to read:

5604.2. The local mental health advisory board shall:

(a) Review and evaluate the community's mental health needs,

services, facilities, and special problems.

(b) Review the county Short-Doyle plan or negotiated net amount contract entered into pursuant to subdivision (c) of Section 5705.2.

(c) Advise the governing body and the local mental health director as to any aspect of the local mental health program.

(d) Review and approve the procedures used to insure citizen and professional involvement at all stages of the planning process as specified in Section 5651.

(e) Submit an annual report to the governing body.

(f) Make recommendations regarding the appointment of a local director of mental health services.

SEC. 10. Section 5606.1 of the Welfare and Institutions Code is repealed.

SEC. 11. Section 5715 of the Welfare and Institutions Code is amended to read:

5715. Expenditures subject to payment shall include expenditures for the items specified in Section 5401; negotiated amounts approved by the department pursuant to Section 5705.2; salaries of personnel; approved facilities and services provided through contract; operation, maintenance, and service costs; depreciation of county facilities as established in the state's uniform accounting manual, disregarding depreciation on such a facility to the extent it was financed by state funds under this part; lease of facilities where there is no intention to, nor option to, purchase; expenses incurred under this act by members of the Conference of Local Mental Health Directors for attendance at regular meetings of such conferences; expenses incurred by either the chairperson or elected representative of the local mental health advisory boards for attendance at regular meetings of the Organization of Mental Health Advisory Boards; and such other expenditures as may be approved by the Director of Mental Health. Except for expenditures made pursuant to Article 6 (commencing with Section 436.30) of Chapter 4 of Part 1 of Division 1 of the Health and Safety Code, it shall not include expenditures for initial capital improvements; the purchase or construction of buildings except for such equipment items and remodeling expense as may be provided for in regulations of the State Department of Mental Health; compensation to members of a local mental health advisory board, except actual and necessary expenses incurred in the performance of official duties which may include travel, lodging, and meals while on official business; or expenditures for a purpose for which state reimbursement is claimed under any other provision of law.

SEC. 11.5. Section 5715 of the Welfare and Institutions Code is amended to read:

5715. Expenditures subject to payment shall include expenditures for the items specified in Section 5401; negotiated amounts approved by the department pursuant to Section 5705.2; salaries of personnel; approved facilities and services provided

through contract; operation, maintenance, and service costs including insurance costs or departmental charges for participation in a county self-insurance program if the charges are not in excess of comparable available commercial insurance premiums and on the condition that any surplus reserves be used to reduce future year contributions; depreciation of county facilities as established in the state's uniform accounting manual, disregarding depreciation on such a facility to the extent it was financed by state funds under this part; lease of facilities where there is no intention to, nor option to, purchase; expenses incurred under this act by members of the Conference of Local Mental Health Directors for attendance at regular meetings of such conferences; expenses incurred by either the chairperson or elected representative of the local mental health advisory boards for attendance at regular meetings of the organization of Mental Health Advisory Boards; and such other expenditures as may be approved by the Director of Mental Health. Except for expenditures made pursuant to Article 6 (commencing with Section 436.30) of Chapter 4 of Part 1 of Division 1 of the Health and Safety Code, it shall not include expenditures for initial capital improvements; the purchase or construction of buildings except for such equipment items and remodeling expense as may be provided for in regulations of the State Department of Mental Health; compensation to members of a local mental health advisory board,except actual and necessary expenses incurred in the performance of official duties which may include travel, lodging, and meals while on official business; or expenditures for a purpose for which state reimbursement is claimed under any other provision of law.

SEC. 12. Section 5764 of the Welfare and Institutions Code is amended to read:

5764. The Citizens Advisory Council shall have the powers and authority necessary to carry out the duties imposed upon it by this chapter including, but not limited to the following:

(a) To advise the Director of Mental Health on the development of the state three-year mental health plan and the system of priorities contained in that plan.

(b) To periodically review all mental health services in California, conducting independent investigations and studies as necessary. The review shall include comment on pertinent portions of the proposed plans and budgets of all state agencies serving persons with mental disabilities, including the Departments of Education, Rehabilitation, Health Services, Transportation, Social Services, Developmental Services, Employment, Youth Authority, Corrections, and Parks and Recreation, and the Office of Statewide Health Planning and Development and may include public hearings. The Citizens Advisory Council may prepare such reports as necessary to the Governor, the Legislature, the Director of Mental Health, and the State Advisory Health Council.

(c) To suggest rules, regulations and standards for the

administration of this division.

(d) To encourage the coordination of community mental health resources, with the purpose of avoiding duplication and fragmentation of services.

(e) To mediate disputes between counties and the state arising under this part.

(f) To employ such administrative, technical and other personnel as may be necessary for the performance of its powers and duties, subject to the approval of the Department of Finance.

(g) To fix the salaries of the personnel employed pursuant to this section which salaries shall be fixed as nearly as possible to conform to salaries established by the Department of Personnel Administration for classes of positions in the state civil service involving comparable duties and responsibilities.

(h) To accept any federal fund granted, by act of Congress or by executive order, for purposes within the purview of the Citizens Advisory Council, subject to the approval of the Department of Finance.

(i) To accept any gift, donation, bequest, or grants of funds from private and public agencies for all or any of the purposes within the purview of the Citizens Advisory Council, subject to the approval of the Department of Finance.

(j) To act as the state council required by Public Law 94-63 to advise the Director of Mental Health on the development of the Community Mental Health Services Plan. For the purposes of implementing this function of the Citizens Advisory Council only, the Director of Mental Health or his or her designee and the Secretary of the Health and Welfare Agency or his or her designee shall serve on the council. Additional functions of the council under this section shall include: (1) to develop and implement procedures for conducting the annual review of and for publicizing the Community Mental Health Services Plan; and (2) to submit as part of the state plan, the council's report resulting from such annual review.

SEC. 12.5. Section 5764 of the Welfare and Institutions Code, as amended by Assembly Bill No. 1856 of the 1985–86 Regular Session of the Legislature, is amended to read:

5764. The California Council on Mental Health shall have the powers and authority necessary to carry out the duties imposed upon it by this chapter, including, but not limited to, the following:

(a) To advise the Director of Mental Health on the development of the state three-year mental health plan and the system of priorities contained in that plan.

(b) To periodically review all mental health services in California, conducting independent investigations and studies as necessary. The review shall include comment on pertinent portions of the proposed plans and budgets of all state agencies serving persons with mental disabilities, including the Departments of Education, Rehabilitation, Health Services, Transportation, Social Services, Developmental

Services, Employment, Youth Authority, Corrections, and Parks and Recreation and the Office of Statewide Health Planning and Development and may include public hearings. The California Council on Mental Health may prepare such reports as necessary to the Governor, the Legislature, and the Director of Mental Health, and the State Advisory Health Council.

(c) To suggest rules, regulations and standards for the administration of this division.

(d) To encourage the coordination of community mental health resources, with the purpose of avoiding duplication and fragmentation of services.

(e) To mediate disputes between counties and the state arising under this part.

(f) To employ such administrative, technical, and other personnel as may be necessary for the performance of its powers and duties, subject to the approval of the Department of Finance.

(g) To fix the salaries of the personnel employed pursuant to this section which salaries shall be fixed as nearly as possible to conform to salaries established by the Department of Personnel Administration for classes of positions in the state civil service involving comparable duties and responsibilities.

(h) To accept any federal fund granted, by act of Congress or by executive order, for purposes within the purview of the California Council on Mental Health, subject to the approval of the Department of Finance.

(i) To accept any gift, donation, bequest, or grants of funds from private and public agencies for all or any of the purposes within the purview of the California Council on Mental Health, subject to the approval of the Department of Finance.

(j) To act as the state council required by Public Law 94-63 to advise the Director of Mental Health on the development of the Community Mental Health Services Plan. For the purposes of implementing this function of the California Council on Mental Health only, the Director of Mental Health or his or her designee and the Secretary of the Health and Welfare Agency or his or her designee shall serve on the council. Additional functions of the council under this section shall include: (1) to develop and implement procedures for conducting the annual review of and for publicizing the Community Mental Health Services Plan; and (2) to submit as part of the state plan, the council's report resulting from such annual review.

SEC. 12.7. Sections 2.5 and 12.5 of this act shall become operative only if this bill and AB 1856 are both chaptered and become operative on or before January 1, 1986, in which case Sections 2 and 12 of this act shall not become operative.

SEC. 13. 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. 14. Section 11.5 of this bill incorporates amendments to Section 5715 of the Welfare and Institutions Code proposed by both this bill and AB 831. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 5715 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 831, in which case Section 11 of this bill shall not become operative.

CHAPTER 1296

An act to amend Sections 26721, 26725, 26726, 26728, 26730, 26734, 26736, 26738, 26739, 26742, 26743, 26744, and 26750 of, to add Section 26733.5 to, and to repeal Section 26733 of, the Government Code, relating to process.

[Approved by Governor September 30, 1985. Filed with Secretary of State September 30, 1985]

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

SECTION 1. Section 26721 of the Government Code is amended to read:

26721. Except as provided in this article, the fee for serving or executing any process or notice required by law or the litigants to be served is sixteen dollars ($16), and the fee for substitute process, as provided for in Section 415.20 of the Code of Civil Procedure, is fourteen dollars ($14).

SEC. 2. Section 26725 of the Government Code is amended to read:

26725. The fee for serving, executing, or processing a writ of attachment, writ of execution, writ of sale, or order on real estate is sixteen dollars ($16) as to the initial service or posting of a continuous unbroken parcel or tract, and sixteen dollars ($16) for serving a record owner other than the defendant.

SEC. 3. Section 26726 of the Government Code is amended to read:

26726. (a) The fee for keeping and caring for property under a writ of attachment, execution, possession, or sale shall not exceed thirty-five dollars ($35) when necessarily employed for any eight-hour period or any part thereof. If an additional keeper or keepers are required during such periods, the fee for the additional keeper or keepers shall be the same as herein fixed, but, in no event shall any one keeper receive more than seventy dollars ($70) during any 24-hour period when so employed.

(b) In addition to the fees provided by Section 26721, the fee for

maintaining custody of property under levy by the use of a keeper is sixteen dollars ($16) for each day custody is maintained after the first day.

(c) Notwithstanding any other fee charged, a keeper shall receive sixteen dollars ($16) when pursuant to Section 26738 a levying officer prepares a not found return.

SEC. 4. Section 26728 of the Government Code is amended to read:

26728. The fee for preparing and posting the initial notice of personal property sale under a writ of attachment, execution, or sale or order of court is sixteen dollars ($16).

SEC. 5. Section 26730 of the Government Code is amended to read:

26730. The fee for conducting or postponing the sale of real or personal property as required by law or the litigant is sixteen dollars ($16).

SEC. 6. Section 26733 of the Government Code is repealed.

SEC. 7. Section 26733.5 is added to the Government Code, to read:

26733.5. The fee for serving a writ of possession of real property on an occupant or the occupants or for posting and serving a copy on the judgment debtor including the putting of a person in possession of the premises and removing the occupant or occupants is twenty-five dollars ($25). The fee for reposting of a notice to vacate shall be pursuant to Section 26721.

SEC. 8. Section 26734 of the Government Code is amended to read:

26734. The fee for making a levy on personal property already in possession of the officer who is holding same under attachment in the same action, is sixteen dollars ($16).

SEC. 9. Section 26736 of the Government Code is amended to read:

26736. The fee for cancellation of the service or execution of any process or notice prior to its completion is sixteen dollars ($16). The fee provided by this section shall not be charged where a charge is made pursuant to the provisions of any other section of this article; nor shall such fee be charged where the cancellation is requested prior to the time a trip is made in attempting to serve or execute such process or notice.

SEC. 10. Section 26738 of the Government Code is amended to read:

26738. The fee for making a not found return on a summons, affidavit and order, order for appearance, subpoena, writ of attachment, writ of execution, writ of possession, order for delivery of personal property, or other process or notice required to be served, certifying that the person or property cannot be found within the judicial district in which the address specified is situated, is sixteen dollars ($16).

SEC. 11. Section 26739 of the Government Code is amended to

read:

26739. The fee for the preparation and execution of a declaration of reasonable diligence in support of any document served pursuant to Section 415.20 of the Code of Civil Procedure is sixteen dollars ($16).

SEC. 12. Section 26742 of the Government Code is amended to read:

26742. The fee for executing and delivering any other instrument is sixteen dollars ($16).

SEC. 13. Section 26743 of the Government Code is amended to read:

26743. The fee for subpoenaing a witness, including a copy of the subpoena and any affidavit required to be served therewith, is sixteen dollars ($16).

SEC. 14. Section 26744 of the Government Code is amended to read:

26744. The fee for serving or executing a bench warrant arising from an order of appearance issued under Sections 491.160 or 708.170 of the Code of Civil Procedure is sixteen dollars ($16).

SEC. 15. Section 26750 of the Government Code is amended to read:

26750. (a) The fee for serving an earnings withholding order under the Wage Garnishment Law, Chapter 5 (commencing with Section 706.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure, including but not limited to the costs of postage or traveling, and for performing all other duties of the levying officer under that law with respect to such levy is sixteen dollars ($16).

(b) No additional fees, costs, or expenses may be charged by the levying officer for performing the duties under the Wage Garnishment Law, Chapter 5 (commencing with Section 706.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

CHAPTER 1297

An act to add Section 585 to, and to add Article 6 (commencing with Section 1821) to Chapter 9 of Part 1 of Division 1 of, the Public Utilities Code, relating to public utilities, and making an appropriation therefor.

[Approved by Governor September 30, 1985. Filed with Secretary of State September 30, 1985]

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

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) The need for comprehensive long-range planning is an accepted principle in many businesses and industries in California,

including public utilities.

(b) Computer models are important planning tools widely used by public utilities in California.

(c) The Public Utilities Commission should have reasonable access to computer programs and models used by public utilities subject to its jurisdiction, to improve the quality and efficiency of its regulation.

(d) The public's ability to protect its interests in the long run are directly affected by the quality of its participation in the long-range planning processes of public utilities, including the process of the creation and use of computer models.

(e) Public utilities have a legitimate need to reasonably assure the security of their computer resources, including confidential and proprietary information and customers of public utilities have a reasonable expectation of privacy concerning customer-specific records maintained by utilities.

(f) This act is declarative of existing law.

SEC. 2. Section 585 is added to the Public Utilities Code, to read:

585. (a) Except as provided in subdivision (d), every public utility and business specified in subdivision (b) shall in any rate proceeding or proceeding establishing a fact or rule that may influence a rate, provide the commission with access to all computer models, as defined in Section 1821, which are used by that public utility or business to substantiate their showing in the proceeding.

(b) The commission shall, by rule or order, with full opportunity for participation by utilities and other affected parties, establish procedures and safeguards governing its access to, and monitoring, verification, and use of, computer models of every public utility and of any business which is a commission regulated subsidiary or affiliate of a public utility with respect to any rate proceeding or proceeding establishing a fact or rule that may influence a rate. The time, place, and manner of commission access shall, to the extent practicable, be the subject of mutual agreement between the commission and the affected utility, and the parties shall make every good faith effort to reach agreement. If an agreement is reached, it shall include, but is not limited to, provisions to reasonably assure the legitimate needs for security of the public utilities' computer resources. These provisions shall provide for the confidentiality of records, the protection of proprietary information, and the protection of the reasonable expectation of customers of public utilities in the privacy of customer-specific records maintained by the utility. If no agreement is reached, any order issued by the commission requiring computer access shall include, but is not limited to, provisions providing for the security of the utility's data bases, confidentiality of records, protection of proprietary information, and the privacy of customer-specific records maintained by the utility. The commission shall convene a proceeding to adopt these rules as soon as possible after the operative date of the act adding this section to the code.

(c) This section shall not expand or limit any powers of the

commission to prescribe the manner of keeping books, records, and systems of accounts of public utilities and to investigate any of these books, records, systems of accounts, or memoranda under existing law, or any other power of the commission under existing law. Any utility may object to a rule or order of the commission concerning the access prescribed herein under the rules of procedure of the commission consistent with existing law.

(d) This section does not apply to common carriers.

SEC. 3. Article 6 (commencing with Section 1821) is added to Chapter 9 of Part 1 of Division 1 of the Public Utilities Code, to read:

Article 6. Computer Models

1821. As used in this article, the following definitions apply:

(a) "Computer model" means a computer program.

(b) "Operations model" means a computer model that replicates, lists, describes, or forecasts a public utility's internal functions, including, but not limited to, its accounting procedures, cash management procedures, personnel assignments and procedures, and inventory control.

(c) "Planning model" means a computer model that replicates, lists, describes, or forecasts a public utility's complex functions, including, but not limited to, the forecasting of future loads and resources, calculating costs of electricity generation, producing financial statements, and calculating costs of natural gas production or supply.

(d) "Public utility" includes every public utility and every business which is a commission regulated subsidiary or commission regulated affiliate of a public utility. "Public utility" does not include a common carrier or a telephone corporation whose service is determined to be competitive by the commission.

(e) "Verify" means to assess the extent to which the computer model mimics reality.

1822. (a) Any computer model that is the basis for any testimony or exhibit in a hearing or proceeding before the commission shall be available to, and subject to verification by, the commission and parties to the hearing or proceedings to the extent necessary for cross-examination or rebuttal, subject to applicable rules of evidence, except that verification is not required for any electricity demand model or forecast prepared by the State Energy Resources Conservation and Development Commission pursuant to Section 25309 or 25402.1 of the Public Resources Code and approved and adopted after a hearing during which testimony was offered subject to cross-examination. The commission shall afford each of these electricity demand models or forecasts the evidentiary weight it determines appropriate. Nothing in this subdivision requires the State Energy Resources Conservation and Development Commission to approve or adopt any electricity demand model or forecast.

(b) Any testimony presented in a hearing or proceeding before the commission that is based in whole, or in part, on a computer model shall include a listing of all the equations and assumptions built into the model.

(c) Any data base that is used for any testimony or exhibit in a hearing or proceeding before the commission shall be reasonably accessible to the commission staff and parties to the hearing or proceeding to the extent necessary for cross-examination or rebuttal, subject to applicable rules of evidence, as applied in commission proceedings.

(d) The commission shall adopt rules and procedures to meet the requirements specified in subdivisions (a), (b), and (c). These rules shall include procedural safeguards that protect data bases and models not owned by the public utility.

(e) The commission shall establish appropriate procedures for determining the appropriate level of compensation for a party's access.

(f) Each party shall have access to the computer programs and models of each other party to the extent provided by Section 1822. The commission shall not require a utility to provide a remote terminal or other direct physical link to the computer systems of a utility to a third party.

1823. The commission shall periodically review and monitor the development and use of any operations model used by any public utility. The commission or any party may use the output of these operations models as evidence in a proceeding or hearing, without introducing into evidence the full methodology used to generate this output, if the commission has monitored that operations model continuously for at least 12 months before the hearing or proceeding and has reviewed and verified the operations model for accuracy no more than three months before the hearing or proceeding. However, no party shall be prohibited from reasonably cross-examining any witness who introduces this evidence.

1824. The commission shall conduct studies to verify, validate, and improve the production cost planning models and the financial planning models of public utilities to facilitate their use by the commission. The commission shall complete the studies of the respective models used and report the results thereof to the Legislature on or before January 1, 1987.

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. The sum of three hundred ninety thousand dollars ($390,000) is hereby appropriated from the Public Utilities Commission Utilities Reimbursement Account in the General Fund to the Public Utilities Commission to carry out Section 585 of, and

Article 6 (commencing with Section 1821) of Chapter 9 of Part 1 of Division 1 of, the Public Utilities Code.

CHAPTER 1298

An act to add Article 15 (commencing with Section 13141) to Chapter 2 of Division 7 of the Food and Agricultural Code, relating to water contamination.

[Approved by Governor September 30, 1985. Filed with Secretary of State September 30, 1985.]

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

SECTION 1. Article 15 (commencing with Section 13141) is added to Chapter 2 of Division 7 of the Food and Agricultural Code, to read:

Article 15. The Pesticide Contamination Prevention Act

13141. The Legislature finds and declares all of the following:

(a) It is the right of every citizen in this state to drink safe, potable, wholesome, and pure drinking water.

(b) The health and economic prosperity of rural communities and individual farm families in the state are threatened by contaminated drinking water supplies because of their proximity to the use of pesticides.

(c) Pesticide contaminants and other organic chemicals are being found at an ever increasing rate in underground drinking water supplies.

(d) The United States Environmental Protection Agency has concluded that evidence of relatively localized levels of pesticide pollution should be treated as a warning of more widespread, future contamination.

(e) Groundwater once polluted cannot be easily cleaned up; thus, there is a considerable potential that groundwater pollution will continue long after actions have been taken to restrict application of the pesticide to land.

(f) Due to the potential widespread exposure to public drinking water supplies from pesticide applications to the land and the resultant risk to public health and welfare, the potential for pollution of groundwater due to pesticide use must be considered in the registration, renewal, and reregistration process.

(g) It is the purpose of this article to prevent further pesticide pollution of the groundwater aquifers of this state which may be used for drinking water supplies.

13142. For the purposes of this article, the following definitions apply:

(a) "Board" means the State Water Resources Control Board.

(b) "Groundwater protection data gap" means that, for a particular economic poison, the director, after study, has been unable to determine that each study required pursuant to subdivision (a) of Section 13143 has been submitted or that each study submitted pursuant to subdivision (a) of Section 13143 is valid, complete, and adequate.

(c) "Henry's Law constant" is an indicator of the escaping tendency of dilute solutes from water and is approximated by the ratio of the vapor pressure to the water solubility at the same temperature.

(d) "Soil adsorption coefficient" is a measure of the tendency of economic poisons, or their biologically active transformation products, to bond to the surfaces of soil particles.

(e) "Pesticide registrant" means a person that has registered an economic poison pursuant to this chapter.

(f) "Agricultural use" has the same meaning as defined in Section 11408.

(g) "Active ingredient" has the same meaning as defined in Section 136 of Title 7 of the United States Code.

(h) "Economic poison" has the same meaning as defined in Section 12753.

(i) "Degradation product" means a substance resulting from the transformation of an economic poison by physicochemical or biochemical means.

(j) "Pollution", for the purposes of this article, means the introduction into the groundwaters of the state of an active ingredient, other specified product, or degradation product of an active ingredient of an economic poison above a level, with an adequate margin of safety, that does not cause adverse health effects.

(k) "Chemigation" means a method of irrigation whereby an economic poison is mixed with irrigation water before the water is applied to the crop or the soil.

(*l*) "Soil microbial zone" means the zone of the soil below which the activity of microbial species is so reduced that it has no significant effect on pesticide breakdown.

13143. (a) Not later than December 1, 1986, a person that has registered an economic poison in California for agricultural use shall submit to the director the information prescribed in this subdivision. The information shall be submitted for each active ingredient in each economic poison registered. The registrant shall submit all of the following information:

(1) Water solubility.

(2) Vapor pressure.

(3) Octanol-water partition coefficient.

(4) The soil adsorption coefficient.

(5) Henry's Law constant.

(6) Dissipation studies, including hydrolysis, photolysis, aerobic and anaerobic soil metabolism, and field dissipation, under California

or similar environmental use conditions.

(7) Any additional information the director determines is necessary.

(b) The director also may require the information prescribed in subdivision (a) for other specified ingredients and degradation products of an active ingredient in any economic poison. The director shall also require this information when the State Department of Health Services or the board submits a written request for the information to the director, if the State Department of Health Services or the board specifies the reasons why they consider the information necessary. The director shall deny the request upon a written finding that, based on available scientific evidence, the request would not further the purposes of this article.

(c) All information submitted pursuant to subdivision (a) shall be presented in English and summarized in tabular form on no more than three sheets of paper with the actual studies, including methods and protocols attached. All information shall, at a minimum, meet the testing methods and reporting requirements provided by the Environmental Protection Agency Pesticide Assessment Guidelines, Subdivision D Series 60 to 64, inclusive, for product chemistry and Subdivision N Series 161 to 164, inclusive, for environmental fate, including information required for degradation products in specific studies. With prior approval from the director, registrants may use specified alternative protocols as permitted by the United States Environmental Protection Agency guidelines, if the director finds use of the protocol is consistent with, and accomplishes the objectives of, this article. Studies conducted on active ingredients in the formulation of economic poisons shall meet the same testing methods as required for studies conducted on active ingredients. The department, in consultation with the board, may, in addition, require specified testing protocols that are specific to California soil and climatic conditions. The director may give a pesticide registrant an extension of up to two years if it determines that this additional time is necessary and warranted to complete the studies required in paragraph (6) of subdivision (a). No extension of the deadline for these studies shall go beyond December 1, 1989. When seeking the extension, the registrant shall submit to the director a written report on the current status of the dissipation studies for which the extension is being sought. For registrants granted an extension pursuant to this section, Section 13145 shall be effective upon the completion date established by the director.

(d) The director may grant the registrant an extension beyond the one authorized in subdivision (c), if all of the following conditions are met:

(1) The registrant submits a written request to the director for an extension beyond the one granted pursuant to subdivision (c). The request shall include the reasons why the extension is necessary and the findings produced by the study up to the time the request is made.

(2) The director finds that the registrant has made every effort to complete the studies required in paragraph (6) of subdivision (a) within the required time limits of the extension granted pursuant to subdivision (c) and that those studies could not be completed within the required time limits due to circumstances beyond the control of the registrant.

(3) The director establishes a final deadline, not to exceed one year beyond the time limit of the extension granted pursuant to subdivision (c), and a schedule of progress by which the registrant shall complete the studies required in paragraph (6) of subdivision (a).

(e) After December 1, 1986, no registration of any new economic poison shall be granted unless the applicant submits all of the information required by the director pursuant to this article and the director finds that the information meets the requirements of this article.

13144. (a) Not later than December 1, 1986, the department shall establish specific numerical values for water solubility, soil adsorption coefficient (Koc), hydrolysis, aerobic and anaerobic soil metabolism, and field dissipation. The values established by the department shall be at least equal to those established by the Environmental Protection Agency. The department may revise the numerical values when the department finds that the revision is necessary to protect the groundwater of the state. The numerical values established or revised by the department shall always be at least as stringent as the values being used by the Environmental Protection Agency at the time the values are established or revised by the department.

(b) Not later than December 1, 1987, and annually thereafter, the director shall report the following information to the Legislature, the State Department of Health Services, and the board for each economic poison registered for agricultural use:

(1) A list of each active ingredient, other specified ingredient, or degradation product of an active ingredient of an economic poison for which there is a groundwater protection data gap.

(2) A list of each economic poison that contains an active ingredient, other specified ingredients, or degradation product of an active ingredient which is greater than one or more of the numerical values established pursuant to subdivision (a), or is less than the numerical value in the case of soil adsorption coefficient, in both of the following categories:

(A) Water solubility or soil adsorption coefficient (Koc).

(B) Hydrolysis, aerobic soil metabolism, anaerobic soil metabolism, or field dissipation.

(3) For each economic poison listed pursuant to paragraph (2) for which information is available, a list of the amount sold in California during the most recent year for which sales information is available and where and for what purpose the economic poison was used, when this information is available in the pesticide use report.

(c) The department shall determine to the extent possible, the toxicological significance of the degradation products and other specified ingredients identified pursuant to paragraph (2) of subdivision (b).

13145. (a) Any registrant of an economic poison identified in paragraph (1) of subdivision (b) of Section 13144 shall be subject to a fine of up to ten thousand dollars ($10,000) for each day the groundwater protection data gap exists. In determining the amount of the fine, the director shall consider both of the following:

(1) The extent to which the registrant has made every effort to submit valid, complete, and adequate information within the required time limits.

(2) Circumstances beyond the control of the registrant that have prevented the registrant from submitting valid, complete, and adequate information within the required time limits.

(b) If there is a dispute between the director and a registrant regarding the existence of a groundwater protection data gap and the director desires to levy a fine on the registrant pursuant to this section, the director shall submit the issues of the dispute to the subcommittee created pursuant to subdivision (b) of Section 13150. The subcommittee shall review the evidence submitted by the registrant and the director and make recommendations to the director on whether or not the groundwater data gap exists.

(c) The provisions of subdivisions (a) and (b) shall not apply to pesticide products whose registration has lapsed or has been cancelled, or to products that have been granted a current extension pursuant to Section 13143.

(d) The director shall, by regulation, establish a list of economic poisons that have the potential to pollute groundwater. The list shall be entitled the Groundwater Protection List. Notwithstanding the provisions of Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code, the director shall immediately place all economic poisons identified in paragraph (2) of subdivision (b) of Section 13144 on the Groundwater Protection List and shall regulate the use of these economic poisons if the economic poison is intended to be applied to or injected into the soil by ground-based application equipment or by chemigation, or the label of the economic poison requires or recommends that the application be followed, within 72 hours, by flood or furrow irrigation. The director shall adopt regulations to carry out the provisions of this article. The regulations shall include, but are not limited to, the following:

(1) Any person who uses an economic poison which has been placed on the Groundwater Protection List is required to report to the county agricultural commissioner the use of the economic poison on a form prescribed by the director. The reporting deadline shall conform to the deadline established for the reporting of the use of restricted materials.

(2) Dealers of economic poisons shall make quarterly reports to

the director of all sales of economic poisons. This report shall include lists of all sales by purchases.

13146. (a) The director shall not register or renew the registration of an economic poison intended to be applied to or injected into the ground by ground-based application equipment or by chemigation after December 1, 1988, if there is a groundwater protection data gap for that economic poison, unless the registrant has been granted a current extension pursuant to Section 13143.

(b) The director shall not register or renew the registration of an economic poison intended for use with other than ground-based application equipment after December 1, 1989, if there is a groundwater protection data gap for that economic poison, unless the registrant has been granted a current extension pursuant to Section 13143.

(c) If a registrant does not comply with the information requirements of Section 13143, the department shall file the information requirements of Section 13143 in accordance with procedures provided in subparagraph (B) of paragraph (2) of subsection (c) of Section 136a of Title 7 of the United States Code. In order to carry out this section, the director has the same authority to require information from registrants of active pesticide ingredients that the administrator of the Environmental Protection Agency has pursuant to subparagraph (B) of paragraph (2) of subsection (c) of Section 136a of Title 7 of the United States Code. On or before July 1, 1986, the director shall, by regulation, prescribe procedures for resolving disputes or funding the filing of the information requirements of Section 13143. The procedures may include mediation and arbitration. The arbitration procedures, insofar as practical, shall be consistent with the federal act, or otherwise shall be in accordance with the commercial arbitration rules established by the American Arbitration Association. The procedures shall be established so as to resolve any dispute with the timetable established in Section 13143.

(d) For an active ingredient or economic poison for which a registrant or registrants do not provide the information required pursuant to Section 13143, the director may determine the active ingredient or economic poison to be critical to agricultural production and the director may utilize assessments charged to those registrants of the active ingredient for which the information is required pursuant to Section 13143 in amounts necessary to cover the department's expenses in obtaining the information. The assessment shall be made pursuant to Section 12824. The director may also request an appropriation to be used in combination with assessments to obtain the required information.

13147. On or before December 1, 1987, and annually thereafter, the director shall request a budget appropriation in order to meet the reasonable and anticipated costs of conducting soil and water monitoring pursuant to Section 13148, a review of data submitted pursuant to Section 13143, and the administration of economic

poisons placed on the Groundwater Protection List pursuant to this article.

13148. (a) In order to more accurately determine the mobility and persistence of the economic poisons identified pursuant to paragraph (2) of subdivision (b) of Section 13144 and to determine if these economic poisons have migrated to groundwaters of the state, the director shall conduct soil and groundwater monitoring statewide in areas of the state where the economic poison is primarily used or where other factors identified pursuant to Section 13143 and subdivision (b) of Section 13144, including physicochemical characteristics and use practices of the economic poisons, indicate a probability that the economic poison may migrate to the groundwaters of the state. The monitoring shall commence within one year after the economic poison is placed on the Groundwater Protection List and shall be conducted in accordance with standard protocol and testing procedures established pursuant to subdivision (b). Monitoring programs shall replicate conditions under which the economic poison is normally used in the area of monitoring. In developing a monitoring program, the director shall coordinate with other agencies that conduct soil and groundwater monitoring.

(b) Within 90 days after an economic poison is placed on the Groundwater Protection List pursuant to subdivision (d) of Section 13145, the director, in consultation with the board, shall develop a standard protocol and testing procedure for each economic poison identified pursuant to subdivision (d) of Section 13145.

(c) The director shall report all monitoring results to the State Department of Health Services and the board.

13149. (a) Within 90 days after an economic poison is found under any of the conditions listed in paragraph (1), (2), or (3), the director shall determine whether the economic poison resulted from agricultural use in accordance with state and federal laws and regulations, and shall state in writing the reasons for the determination.

(1) An active ingredient of an economic poison has been found at or below the deepest of the following depths:

(A) Eight feet below the soil surface.

(B) Below the root zone of the crop where the active ingredient was found.

(C) Below the soil microbial zone.

(2) An active ingredient of an economic poison has been found in the groundwaters of the state.

(3) The economic poison has degradation products or other specified ingredients which pose a threat to public health and which have been found under the conditions specified for active ingredients in either paragraph (1) or (2).

(b) Upon a determination by the director that an economic poison meets any of the conditions specified in paragraph (1), (2), or (3) of subdivision (a) as a result of agricultural use in accordance

with state and federal laws and regulations, the director shall immediately notify the registrant of the determination and of the registrant's opportunity to request a hearing pursuant to subdivision (c).

(c) Any economic poison that meets any of the conditions in subdivision (b) shall be subject to the provisions of Section 13150, provided the registrant of the economic poison requests, within 30 days after the notice is issued, that the subcommittee conduct a hearing, as described in Section 13150. Notwithstanding any other provision of law, if the registrant does not request the hearing within 30 days after the notice is issued, the director shall cancel the registration of the economic poison.

(d) For the purposes of this section, any finding of an economic poison shall result from an analytical method approved by the department and shall be verified, within 30 days, by a second analytical method or a second analytical laboratory approved by the department.

13150. The director may allow the continued registration, sale, and use of an economic poison which meets any one of the conditions specified in Section 13149 if all of the following conditions are met:

(a) The registrant submits a report and documented evidence which demonstrate both of the following:

(1) That the presence in the soil of any active ingredient, other specified ingredient, or degradation product does not threaten to pollute the groundwaters of the state in any region within the state in which the economic poison may be used according to the terms under which it is registered.

(2) That any active ingredient, other specified ingredient, or degradation product that has been found in groundwater has not polluted, and does not threaten to pollute, the groundwater of the state in any region within the state in which the economic poison may be used according to the terms under which it is registered.

(b) A subcommittee of the director's pesticide registration and evaluation committee, consisting of one member each representing the director, the State Department of Health Services, and the board, holds a hearing, within 180 days after it is requested by the registrant, to review the report and documented evidence submitted by the registrant and any other information or data which the subcommittee determines is necessary to make a finding.

(c) The subcommittee, within 90 days after the hearing is conducted, makes any of the following findings and recommendations:

(1) That the ingredient found in the soil or groundwater has not polluted and does not threaten to pollute the groundwaters of the state.

(2) That the agricultural use of the economic poison can be modified so that there is a high probability that the economic poison would not pollute the groundwaters of the state.

(3) That modification of the agricultural use of the economic

poison pursuant to paragraph (2) or cancellation of the economic poison will cause severe economic hardship on the state's agricultural industry, and that no alternative products or practices can be effectively used so that there is a high probability that pollution of the groundwater of the state will not occur. The subcommittee shall recommend a level of the economic poison that does not significantly diminish the margin of safety recognized by the subcommittee to not cause adverse health effects.

When the subcommittee makes a finding pursuant to paragraph (2) or (3), it shall determine whether the adverse health effects of the economic poison are carcinogenic, mutagenic, teratogenic, or neurotoxic.

(d) The director, within 30 days after the subcommittee issues its findings, does any of the following:

(1) Concurs with the subcommittee finding pursuant to paragraph (1) of subdivision (c) of Section 13149,

(2) Concurs with the subcommittee finding pursuant to paragraph (2) of subdivision (c) of Section 13149, and adopts modifications that result in a high probability that the economic poison would not pollute the groundwaters of the state,

(3) Concurs with the subcommittee findings pursuant to paragraph (3) of subdivision (c), or determines that the subcommittee finding pursuant to paragraph (2) of subdivision (c) will cause severe economic hardship on the state's agricultural industry. In either case, the director shall adopt the subcommittee's recommended level or shall establish a different level, provided the level does not significantly diminish the margin of safety to not cause adverse health effects.

(4) Determines that, contrary to the finding of the subcommittee, no pollution or threat to pollution exists. The director shall state the reasons for his or her decisions in writing at the time any action is taken, specifying any differences with the subcommittee's findings and recommendations. The written statement shall be transmitted to the appropriate committees of the Senate and Assembly, the Department of Health Services, and the board.

When the director takes action pursuant to paragraph (2) or (3), he or she shall determine whether the adverse health effects of the economic poison are carcinogenic, mutagenic, teratogenic, or neurotoxic.

13151. Any economic poison identified pursuant to Section 13149 which fails to meet any of the conditions of Section 13150 shall be canceled.

13152. (a) The director shall conduct ongoing soil and groundwater monitoring of any economic poison whose continued use is permitted pursuant to paragraph (3) of subdivision (d) of Section 13150.

(b) Any economic poison monitored pursuant to this section that is determined, by review of monitoring data and any other relevant data, to pollute the groundwaters of the state two years after the

director takes action pursuant to paragraph (3) of subdivision (d) of Section 13150 shall be canceled unless the director has determined that the adverse health effects of the economic poison are not carcinogenic, mutagenic, teratogenic, or neurotoxic.

(c) The director shall maintain a statewide data base of wells sampled for pesticide active ingredients. All agencies shall submit to the director, in a timely manner, the results of any well sampling for pesticide active ingredients and the results of any well sampling that detect any pesticide active ingredients.

(d) Not later than June 30, 1986, the director, the State Department of Health Services, and the board shall jointly establish minimum requirements for well sampling that will ensure precise and accurate results. The requirements shall be distributed to all agencies that conduct well sampling. All well sampling conducted after December 1, 1986, shall meet the minimum requirements established pursuant to this subdivision.

(e) The director, in consultation with the State Department of Health Services and the board, shall report the following information to the Legislature, the State Department of Health Services, and the board on or before December 1, 1986, and annually thereafter:

(1) The number of wells sampled for pesticide active ingredients, the location of the wells from where the samples were taken, the well numbers, if available, and the agencies responsible for drawing and analyzing the samples.

(2) The number of well samples with detectable levels of pesticide active ingredients, the location of the wells from which the samples were taken, the well numbers, if available, and the agencies responsible for drawing and analyzing the samples.

(3) An analysis of the results of well sampling described in paragraphs (1) and (2), to determine the probable source of the residues. The analysis shall consider factors such as the physical and chemical characteristics of the economic poison, volume of use and method of application of the economic poison, irrigation practices related to use of the economic poison, and types of soil in areas where the economic poison is applied.

(4) Actions taken by the director and the board to prevent economic poisons from migrating to groundwaters of the state.

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, except that no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs which may be incurred by a local agency or school district 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. 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 1299

An act to add Sections 8220.1 and 8220.2 to the Education Code, relating to child care and development, and making an appropriation therefor.

[Approved by Governor September 30, 1985 Filed with Secretary of State September 30, 1985.]

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

SECTION 1. It is the intent of the Legislature to promote parental options for subsidized child care. The alternative payment program is a flexible approach to subsidizing unmet child care needs because it allows for parental choice in selecting the most appropriate child care. Through the alternative payment program, children are placed in either child care centers or family day care homes, which are able to meet the special needs of working mothers who often need weekend, evening or swing shift child care. Fees for the alternative payment program are set in the market place and are therefore lower than other forms of subsidized care. Lower average costs allow the state to serve more needy children with the same scarce child care dollars.

SEC. 2. Section 8220.1 is added to the Education Code, to read:

8220.1. (a) The State Department of Education shall contract with local contracting agencies for alternative payment programs so that services will be provided throughout the state. The department shall expand existing alternative payment programs and fund new alternative payment programs to the extent that funds are provided by the Legislature.

(b) Funding for the new programs pursuant to this section shall be allocated to programs which meet all of the following requirements:

(1) Applicants shall conform to the requirements of this article.

(2) Applicants shall demonstrate that an alternative payment child development program is an appropriate method of delivering child care services within the county or service area at the level requested in the application by doing either of the following:

(A) Demonstrating the availability of sufficient licensed or exempt child care providers.

(B) Providing a plan for the development of sufficient licensed child care providers working in cooperation with the local resource and referral agency.

(3) Applicants shall demonstrate the administrative viability of the alternative payment agency and its capacity to meet performance requirements.

(4) Existing alternative payment child development programs receiving funds for expansion into a new service area shall be funded at a documented rate appropriate to that community and may contract separately as appropriate.

SEC. 3. Section 8220.2 is added to the Education Code, to read:

8220.2. Alternative payment programs shall serve an identifiable geographic area approved by the State Department of Education. The service area may be delineated by jurisdictional city or county boundaries, by natural geographic barriers, streets, roads, or zip codes.

In the appropriation of expansion funds allocated in this section and in Assembly Bill 55 of the 1985–86 Regular Session of the Legislature, first priority shall be given to develop the alternative payment programs in unserved areas of the state.

Second priority shall be given to expand current alternative payment programs. The state department shall reserve funds to ensure that at least 50 percent of the moneys allotted for the alternative payment program in both Assembly Bill 55 of the 1985–86 Regular Session of the Legislature and this section shall be used to fund this second priority.

SEC. 4. The sum of one million three hundred thousand dollars ($1,300,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction for allocation according to the following schedule:

(a) One million two hundred thousand dollars ($1,200,000) for the expansion of child care alternative payment programs. Of this sum, thirty thousand dollars ($30,000) shall be allocated for training and technical assistance. The State Department of Education shall select a nonprofit organization to provide these services. The organization selected shall have demonstrated experience and expertise in the provision of training and technical assistance to new and existing alternative payment programs. In addition thirty thousand dollars ($30,000) shall be allocated to the State Department of Education for administration of the provisions of this bill and the alternative payment program provisions of Assembly Bill 55 of the 1985–86 Regular Session of the Legislature.

(b) One hundred thousand dollars ($100,000) for the San Francisco Foundation's California Child Care Initiative Fund for the purpose of making grants to selected child care resource and referral agencies in order to increase the availability of quality child care programs in the state. For the purposes of this section, the California Child Care Initiative shall be defined as a demonstration project to expand the role and functions of selected resource and referral agencies in specific activities including needs assessment, recruitment and screening of providers, technical assistance, staff development and training.

The California Child Care Initiative shall ensure that the state funds are matched with a minimum total four hundred thousand dollars ($400,000) contribution from private corporations and local governments. These funds shall be available without regard to fiscal year, except that any funds unexpended by July 1, 1988, shall revert to the General Fund.

SEC. 5. Sections 2 and 3 of this act shall become operative only if Assembly Bill 55 of the 1985–86 Regular Session of the Legislature is enacted and becomes effective on or before January 1, 1986, and in that case shall become operative at the same time as Assembly Bill 55 of the 1985–86 Regular Session of the Legislature or January 1, 1986, whichever is later.

CHAPTER 1300

An act to amend and supplement the Budget Act of 1985 by adding Item 3810-303-036 thereto, relating to public resources, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1985. Filed with Secretary of State September 30, 1985]

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

SECTION 1. The Legislature finds and declares that the purchase of real property in Cabrini/Craig and Elmwood/Wildwood Canyons in the Verdugo Mountains is necessary to preserve open space and to facilitate public use of the Rim of the Valley Trail.

SEC. 2. Item 3810-303-036 is added to the Budget Act of 1985 (Chapter 111, Statutes of 1985), to read:

3810-303-036—For capital outlay and local assistance, Santa Monica Mountains Conservancy, payable from the Special Account for Capital Outlay		3,000,000
Schedule:		
(1) Project planning and design	25,000	
(2) Open space, recreation areas, and improvements in Cabrini/Craig Canyon, Burbank, Rim of the Valley Trail Corridor	2,500,000	
(3) Trail corridor access, improvements, and open space, Elmwood/Wildwood Canyons, Burbank, Rim of the Valley Trail Corridor	475,000	
Provisions:		
1. Notwithstanding any other provision of law, the amount in category (2) may be used to secure		

an option on those properties.

2. Funds appropriated in this item may be encumbered for individual acquisitions, but no funds shall be encumbered or granted by the conservancy for an individual acquisition unless and until the City of Burbank has encumbered, from nonstate sources, an amount at least equal to the amount encumbered or granted by the conservancy for that acquisition.
3. Prior to the encumbrance of funds appropriated by this item, the Executive Director of the conservancy shall certify to the Controller the approval of the fair market value appraisal for any property to be acquired.

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 urgently needed projects may be commenced by the Santa Monica Mountains Conservancy at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1301

An act to amend Section 11311 of, to add Section 11312.1 to, and to repeal Section 11312 of, the Welfare and Institutions Code, relating to public assistance.

[Approved by Governor September 30, 1985. Filed with Secretary of State September 30, 1985.]

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

SECTION 1. The Legislature finds and declares that applicants for and recipients of Aid to Families with Dependent Children would rather work than receive public assistance, if there were jobs available that provided enough income to meet the needs of the children and the family. The Legislature further finds that many recipients of the Aid to Families with Dependent Children program do not have an existing work history, which itself is an obstacle to locating full-time employment.

In order to assist recipients in establishing a work history and on-the-job experience and also to create an incentive for organizations and businesses to hire recipients a grant diversion program is hereby established.

SEC. 2. Section 11311 of the Welfare and Institutions Code, as amended by Chapter 119 of the Statutes of 1985, 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 those 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. Sec. 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.

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 11312 of the Welfare and Institutions Code, as added by Chapter 522 of the Statutes of 1984, is repealed.

SEC. 4. Section 11312.1 is added to the Welfare and Institutions Code, to read:

11312.1. (a) The State Department of Social Services shall establish a grant diversion program, which may be implemented at the option of a county, as part of the Work Incentive Demonstration Program. In addition, the department shall seek appropriate waivers from the federal government, if necessary, in order to operate the grant diversion program.

(b) This program shall be administered either by the counties or through agreements between counties and entities administering services in service delivery areas designated pursuant to Division 8 (commencing with Section 15000) of the Unemployment Insurance Code, subject to the approval of the State Department of Social Services. Any county which wishes to implement a grant diversion program shall submit a plan to the department showing why the program would be cost-effective, and including what applicants or recipients of aid under this chapter will be targeted, and what grant savings the state can expect. The program shall provide for the diversion of aid to pay a part of the wages of participants engaged in on-the-job training with for profit or nonprofit, organizations or small disadvantaged business enterprises as defined by the department, who have agreed to either employ a participant, or guarantee a priority to hire a participant when a vacancy occurs, upon successful completion of the training, or employed by a for profit or nonprofit agency which places recipients in training with employers who qualify under this section and receives compensation from the employers for the services performed by the recipients. On-the-job training programs utilizing grant diversions shall be for a period not exceeding nine months, and the amount of the wage subsidy may be periodically reduced during the period of training. Participants shall continue to be eligible for Medi-Cal benefits pursuant to Chapter 7 (commencing with Section 14000). Grant diversion participants shall be eligible for the thirty dollars ($30) plus

one-third of earned income exclusion from income deemed available to a recipient of aid in computing his or her aid grant under this chapter, unless prohibited by federal law. All grant diversion jobs shall meet federal or state minimum standards, whichever are applicable.

(c) The department shall, subject to the availability of funds, publicize the existence of this program, and shall coordinate this program with the federal Small Business Administration.

(d) An applicant or recipient of aid under this chapter who participates in a grant diversion program shall be guaranteed that the value of the benefits available to him or her prior to his or her entry into the program shall not be diminished. Furthermore, a participant employed pursuant to this section shall be treated in the same manner as are regular employees, and the participant's salary shall be the amount that he or she would have received if employed in that position and not participating pursuant to this section.

(e) All applicants or recipients of aid under this chapter shall be provided with information concerning the program. Participation in the program shall be voluntary, and no person shall have any sanction applied to him or her for failure to participate. No sanctions shall be imposed against a program participant if he or she is terminated by the employer. If, however, the department determines that the termination was for good cause, as defined in Division 2 (commencing with Section 5000) of the Unemployment Insurance Code, the participant shall be ineligible for further participation in the program.

(f) All employers participating in the program shall provide written assurances that they will hire persons employed under this program, or guarantee a priority to hire persons employed under this program, when vacancies or new jobs are created in their establishments.

(g) An employer, prior to becoming eligible to fill a position under this program, shall certify to the department that the employment, offer of employment, or work activity complies with all of the following conditions:

(1) The conditions of work are reasonable and not in violation of applicable federal, state, and local safety and health standards.

(2) The assignments are not in any way related to political, electoral, or partisan activities.

(3) The grant diversion position utilized or established pursuant to this section is not created as the result of, or does not result in, any of the following:

(A) Displacement of current employees, including overtime currently worked by these employees.

(B) The filling of established unfilled positions.

(C) The filling of positions which would otherwise be promotional opportunities for current employees.

(D) The filling of a position, prior to compliance with applicable personnel procedures or provisions of collective bargaining

agreements.

(E) The filling of a position created by termination, layoff, or reduction in workforce.

(F) The filling of a work assignment customarily performed by a worker in a job classification within a recognized collective bargaining unit in that specific worksite, or the filling of a work assignment in any bargaining unit in which funded positions are vacant or in which regular employees are on layoff.

(G) A strike, lockout, or other bona fide labor dispute, or violation of any existing collective bargaining agreement between employees and employers.

(h) If the department determines that an organization participating under this section is not complying with the provisions of this section or with any agreements entered into pursuant to this section, the department shall terminate the organization's eligibility to participate under this section.

The department shall, or shall require each county to, periodically review compliance by organizations participating under this program with the provisions of this section.

(i) If AB 2580 or any other bill is enacted during the 1985–86 Regular Session which provides for a grant diversion program the department shall administer this section in a manner so as to avoid duplication of services and maximize fiscal efficiency.

SEC. 5. (a) The State Department of Social Services shall report to the Legislature by December 1, 1986, and shall provide a second report by December 1, 1987, on the San Diego Work Experience Program, provided for pursuant to Section 11311 of the Welfare and Institutions Code, including the Employment Preparation Program and any other component added after the effective date of this act. The department shall submit a proposed methodology for the first report to the Joint Legislative Budget Committee by January 15, 1986, and for the second report by January 1, 1987. The Legislative Analyst shall provide the department with his or her comments and suggestions regarding the proposed methodology for the first report by March 15, 1986. In preparing the reports, the department shall consult with the Employment Development Department and the County of San Diego.

(b) The reports shall include, but not be limited to, all of the following:

(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.

(c) The Legislative Analyst shall provide the Legislature with his or her review of the department's first report in the Analysis of the 1987–88 Budget Bill, and of the second report in the Analysis of the 1988–89 Budget Bill.

CHAPTER 1302

An act to add Section 6517.5 to the Government Code, relating to state office buildings.

[Approved by Governor September 30, 1985 Filed with Secretary of State September 30, 1985]

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

SECTION 1. Section 6517.5 is added to the Government Code, to read:

6517.5. (a) Notwithstanding any other provision of this chapter, the Community Redevelopment Agency of the City of Los Angeles may advance funds, not to exceed four million dollars ($4,000,000), to the Department of General Services and the Los Angeles State Office Building Authority to complete plans and prepare bid specifications and related documents for a proposed state office building to be located in the City of Los Angeles between Spring Street, Main Street, Third Avenue, and Fourth Street, subject to the requirements of this section.

(b) The department or the authority shall make a determination on whether to proceed with construction of the state office building by June 30, 1987.

(c) If the department or the authority determines not to proceed with construction of the state office building, the department shall reimburse the agency by December 31, 1987, from the Special Fund for Capital Outlay, for any and all funds advanced by the agency to the department or to the authority for completing plans, preparing bid documents, and taking other actions, including the employment of legal counsel, relating to the design development phase, construction document phase, and bidding phase for the state office building.

(d) If the department or the authority determines to proceed with construction of the state office building, the agency shall be reimbursed for any and all funds advanced by the agency from the bond proceeds or from other financing available for construction of

the state office building.

(e) The authority may acquire, own, construct, and operate parking facilities to serve the state office building, as the authority may deem to be in the best interests of the people of the State of California.

(f) The department and the agency may amend the authority agreement to provide for longer terms of office and to remove the restrictions on the number of terms for the members of the governing board of the authority, as the department and agency may deem appropriate.

(g) As used in this section, "funds advanced by the agency" means the principal amount of the agency's advance.

SEC. 2. The Legislature finds and declares that a general statute within the meaning of Section 16 of Article IV of the California Constitution cannot be made applicable for the purposes of this act due to the unique circumstances affecting the Los Angeles State Office Building Authority, and a joint exercise of powers agreement between the Community Redevelopment Agency of the City of Los Angeles and the Department of General Services, that are not applicable statewide.

CHAPTER 1303

An act to amend Section 2512 of, and to add Section 2422 to, the Vehicle Code, relating to the California Highway Patrol.

[Approved by Governor September 30, 1985. Filed with Secretary of State September 30, 1985]

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

SECTION 1. Section 2422 is added to the Vehicle Code, to read:

2422. The department shall determine and implement the basic level of emergency medical dispatcher training for dispatchers employed by the department based on guidelines developed by the California Emergency Medical Services Authority with the concurrence of the department. Implementation shall commence not later than January 1, 1987. Notwithstanding the foregoing, the commissioner may adopt a higher level of training for department dispatchers where appropriate.

The department shall report to the Legislature on progress in the implementation of an emergency medical dispatch training program not later than January 1, 1988.

SEC. 2. Section 2512 of the Vehicle Code is amended to read:

2512. (a) The commissioner, after consultation with, and pursuant to the recommendations of, the Emergency Medical Service Authority and the Department of Motor Vehicles, shall adopt and enforce reasonable regulations as the commissioner determines

are necessary for the public health and safety regarding the operation, equipment, and certification of drivers of all ambulances used for emergency services. The regulations shall not conflict with standards established by the Emergency Medical Service Authority pursuant to Section 1797.170 of the Health and Safety Code. The commissioner shall exempt, upon request of the county board of supervisors that an exemption is necessary for public health and safety, noncommercial ambulances operated within the county from the regulations adopted under this section as are specified in the board of supervisors' request. The Emergency Medical Service Authority shall be notified by the county boards of supervisors of any exemptions. The commissioner may, with the consent of the Director of Motor Vehicles, authorize the director to administer any regulations adopted pursuant to this section which relate to the issuance, suspension, or revocation of ambulance drivers' certificates, to charge a fee of twelve dollars ($12) for issuance of the certificate, and, in the administration thereof, to exercise the powers granted to the commissioner by this section.

(b) This section shall not preclude the adoption of more restrictive regulations by local authorities, except that inspection of ambulances pursuant to subdivision (b) of Section 2510 shall not be duplicated by local authorities. It is the intent of the Legislature that regulations adopted by the commissioner pursuant to this section shall be the minimum necessary to protect public health and safety, and shall not be so restrictive as to preclude compliance by ambulances operated in sparsely populated areas. The provisions of this subdivision shall not relieve the owner or driver of any ambulance from compliance with Section 21055.

(c) The Department of the California Highway Patrol shall prepare, and make available for purchase, an ambulance driver's handbook.

CHAPTER 1304

An act to amend Section 25169 of the Health and Safety Code, and to add Section 3631.5 to the Public Utilities Code, relating to carriers, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1985. Filed with Secretary of State September 30, 1985]

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

SECTION 1. (a) The Legislature hereby finds and declares as follows:

(1) The state is responsible for ensuring that the public is financially protected against injuries and damages that may occur as

a result of accidents involving highway carriers transporting hazardous materials including, but not limited to, hazardous wastes.

(2) Applicable rules and orders of the Public Utilities Commission establish only two minimum levels of financial responsibility for highway carriers in California: one million two hundred thousand dollars ($1,200,000) for carriers of petroleum and petroleum wastes, and six hundred thousand dollars ($600,000) for all other highway carriers, including carriers of nonpetroleum hazardous materials and hazardous wastes.

(3) The United States Department of Transportation requires significantly higher levels of financial responsibility for motor carriers of hazardous materials and hazardous wastes than for motor carriers of nonhazardous materials or wastes.

(4) The United States Department of Transportation, as of July 1, 1984, increased the minimum levels of financial responsibility required for motor carriers of hazardous materials and hazardous wastes to encourage them to operate and maintain their vehicles safely and to assure that they maintain an adequate level of financial responsibility.

(b) It is, therefore, the purpose of this act to require highway carriers transporting hazardous materials and hazardous wastes to obtain and maintain adequate financial responsibility.

SEC. 2. Section 25169 of the Health and Safety Code is amended to read:

25169. (a) Every transporter of hazardous waste shall maintain ability to respond in damages resulting from the operation of that business consistent with whichever of the following requires the highest limits:

(1) The liability limits prescribed pursuant to Section 3631 of the Public Utilities Code.

(2) The liability limits prescribed pursuant to Section 3631.5 of the Public Utilities Code.

(3) A higher limit than that prescribed pursuant to paragraph (1) or (2), when deemed necessary and so established by the department.

(b) The department shall, within two working days of being informed of any violation of subdivision (a), transmit a notice of violation to the transporter suspected of the violation. If the transporter so notified does not present proof of compliance with subdivision (a) to the department's satisfaction within 30 days of transmittal of the notice, the department shall immediately, notwithstanding Section 25168.2, suspend the transporter's registration. If proof of compliance is not submitted within 60 days, the registration shall immediately be revoked, notwithstanding Section 25168.2. A transporter whose registration is revoked pursuant to this subdivision may apply again for registration upon furnishing proof of compliance with subdivision (a).

SEC. 3. Section 3631.5 is added to the Public Utilities Code, to read:

3631.5. (a) Notwithstanding Section 3631, the commission shall, within 60 days after the operative date of the statute enacting this section, require every highway carrier transporting any hazardous material, as defined by Section 353 of the Vehicle Code, to obtain and continue in effect protection against liability imposed by law on the carrier for the payment of damages for personal injury or death, and damage to or destruction of property, in amounts of not less than the minimum levels of financial responsibility specified for carriers of hazardous materials by the United States Department of Transportation in Part 387 of Title 49 of the Code of Federal Regulations.

SEC. 4. The sum of forty thousand dollars ($40,000) is hereby appropriated from the Transportation Rate Fund to the Public Utilities Commission for expenditure during the 1985–86 fiscal year for purposes of Section 3631.5 of the Public Utilities Code.

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

In order to ensure that transporters of hazardous waste adopt and maintain adequate financial responsibility, for the protection of the public health and safety, as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 1305

An act to amend Sections 1572, 1572.5, 1575.7, 1588, 1588.2, 1588.5, 1588.7, and 1589.5 of the Health and Safety Code, and to amend Section 14575 of the Welfare and Institutions Code, relating to aging, and making an appropriation therefor.

[Approved by Governor September 30, 1985. Filed with Secretary of State September 30, 1985.]

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

SECTION 1. Section 1572 of the Health and Safety Code, as amended by Section 4 of Chapter 1600 of the Statutes of 1984, is amended read:

1572. To the extent provided for under Section 9316 of the Welfare and Institutions Code, the functions and duties of the state department provided for under this chapter shall be performed for three years by the Department of Aging commencing on the date the functions are transferred from the Department of Health Services to the Department of Aging. These functions shall be transferred when the Department of Aging develops an implementation plan clearly defining the authority, functions, and responsibility of the Department of Aging, and signs an interagency

agreement with the state department to specify how the departments shall work together in areas of mutual concern.

The interagency agreement shall specify that the Department of Aging is designated by the state department as the agency responsible for community long-term care programs. At a minimum, the interagency agreement shall clarify each department's responsibilities on issues involving licensure and certification of adult day health care providers, payment of adult day health care claims, prior authorization of services, promulgation of regulations, and development of adult day health care Medi-Cal rates. This agreement shall also include provisions whereby the state department and the Department of Aging shall collaborate in the development and implementation of health programs and services for older persons and functionally impaired adults.

By December 1, 1986, the Department of Aging shall submit to the Joint Legislative Budget Committee and the fiscal committees of both houses a report specifically addressing the goals of the adult day health care program and how they have been met as a result of this transfer from the state department to the Department of Aging. To the extent necessary for implementation of Section 9316 of the Welfare and Institutions Code, as used in this chapter, "director" shall refer to the Director of the Department of Aging and "state department" shall refer to the Department of Aging. An Adult Day Health Care Committee is hereby established in the Department of Aging. The committee shall include a member of the California Commission on Aging, who shall be a member of the Long-Term Care Committee of the commission, a representative of the Association for Adult Day Care Services, a representative of the California Association of Area Agencies on Aging, a representative of the California Conference of Local Health Officers, a member of a local adult day health care planning council, and representatives from other appropriate state departments, including the State Department of Health Services, the State Department of Social Services, the State Department of Mental Health, and the State Department of Rehabilitation, as deemed appropriate by the Director of the Department of Aging. The committee shall advise the Director of the Department of Aging in developing policies and procedures for regulation of the Adult Day Health Care program.

This function shall also include advice to the Director of the Department of Aging for recommendations to the State Department of Health Services on licensure, Medi-Cal reimbursement, and utilization control issues.

Additionally, the functions of the committee shall include all of the following:

(a) The committee shall review and make recommendations on guidelines for adoption by the Director of the Department of Aging setting forth principles for evaluation of community need for adult day health care, which shall take into consideration the desirability of coordinating and utilizing existing resources, avoidance of

duplication of services and inefficient operations, and locational preferences with respect to accessibility and availability to the economically disadvantaged older person.

(b) The committee shall review county plans submitted pursuant to Section 1572.9. Such county plans shall be approved if consistent with the guidelines adopted by the director pursuant to subdivision (a).

(c) The committee shall review and make recommendations to the Director of the Department of Aging concerning individual proposals for startup funds and for original licensure of proposed adult day health care centers. The Director of the Department of Aging shall make recommendations regarding licensure to the Licensing and Certification Division in the State Department of Health Services. This review may include onsite inspections by the committee, or a special subcommittee thereof, for the purpose of evaluating a proposed provider or its facility. The basis of this review shall be the approved county plan and an evaluation of the ability of the applicant to provide adult day health care in accordance with the requirements of this chapter and regulations adopted hereunder. A public hearing on each individual proposal for an adult day health care center may be held by the department in conjunction with the local adult day health care council in the county to be served. A hearing shall be held if requested by a local adult day health care council. In order to provide the greatest public input, the hearing should preferably be held in the services area to be served.

This section shall remain in effect only until three years from the date upon which responsibility for the adult day health care program is transferred to the Department of Aging, and as of that date is repealed, unless a later enacted statute enacted prior to that date extends or deletes that date.

SEC. 2. Section 1572.5 of the Health and Safety Code is amended to read:

1572.5. (a) The board of supervisors of any county may establish for the county an adult day health care planning council as provided in this section. Alternatively, two or more adjacent counties may agree to form a single adult day health care planning council with jurisdiction in all participating counties. Each council shall be comprised of 15 members appointed by the board of supervisors, or jointly appointed by the boards of supervisors of counties having a single council, as follows:

(1) Eight members of the council shall be persons over 55 years of age who have a demonstrated interest in the special health and social needs of the elderly and who are representative of organizations dedicated primarily to the needs of older persons, including those of low-income and racial and ethnic minorities.

(2) A representative of the area agency on aging designated pursuant to Public Law 94-135 or, if none, a county agency responsible for services to senior citizens.

(3) A representative of a county agency responsible for

administration of health programs for senior citizens.

(4) A representative of an area health planning agency designated pursuant to Section 437.7 for an area included within the council's jurisdiction.

(5) A representative of the county medical society.

(6) A representative of a publicly funded senior citizen transportation program.

(7) A representative of a health facility or organization of health facilities providing acute or long-term care to the elderly.

(8) A member-at-large who has demonstrated an interest in alternatives to institutional long-term care.

(b) The board of supervisors, with the approval of the Department of Aging, may designate the area agency on aging advisory council as the adult day health care planning council in counties in which all of the following exist:

(1) An adult day health care planning council has not been established.

(2) The board of supervisors governs the area agency on aging.

(3) The area agency on aging has demonstrated interest and commitment in alternatives to institutional long-term care.

(4) The area agency on aging advisory council includes representatives of county or community-based agencies which are responsible for administering or providing long-term care services or which have demonstrated an interest in developing long-term care alternatives.

The board of supervisors shall seek the advice and assistance of other health and transportation representatives identified in this section.

(c) If persons meeting the qualifications specified by any paragraph of subdivision (a) are unavailable or unwilling to serve on the council, the appointing power may apply to the director for an exemption. In this case, the director shall grant an exemption and shall specify such alternative qualifications as will best serve the purposes of this chapter with due regard for local conditions.

SEC. 3. Section 1575.7 of the Health and Safety Code is amended to read:

1575.7. The State Department of Health Services, prior to issuing a new license, shall secure from an appropriate law enforcement agency records of any criminal activity, other than minor traffic violations, of the administrator, program director, and fiscal officer of the proposed adult day health care center. The state department shall obtain the records each time these positions are to be filled. A past conviction of any crime, especially any crime involving misuse of funds involving physical abuse shall, in the discretion of the State Department of Health Services, be grounds for denial of the license.

Suspension of the applicant from the Medi-Cal program or prior violations of statutory provisions or regulations relating to licensure of a health facility, community care facility, or clinic shall also be grounds for a denial of licensure, where determined by the state

department to indicate a substantial probability that the applicant will not comply with this chapter and regulations adopted hereunder.

No applicant which is licensed as a health facility, community care facility, or clinic may be issued a license for an adult day health care center while there exists a subsisting, uncorrected violation of the statutes or regulations relating to such licensure.

SEC. 4. Section 1588 of the Health and Safety Code is amended to read:

1588. (a) The state department shall, subject to the availability of funds appropriated therefor, conduct a grants-in-aid program for the following purposes:

(1) To assist in the establishment of new adult day health care centers.

(2) To assist in stabilizing the health care operations of adult day health care centers which have been licensed for a period of two years or less.

(3) To assist in stabilizing the health care operations of adult day health care centers which have been licensed for a period of four years or less when identified expansion meets criteria outlined in the specific guidelines established for the grant-supported activities. Expansion under this paragraph shall be based on documented unmet need.

(4) To fund innovative and creative adult day health care programs designed to provide a high quality of health services at a minimum cost.

(b) The grants authorized pursuant to this article shall be limited in purpose to defraying operating expenses of the center, including staffing costs, required renovation costs, and facility rental costs.

SEC. 5. Section 1588.2 of the Health and Safety Code is amended to read:

1588.2. Eligibility for grants pursuant to this article shall be limited to any public or private nonprofit agency. The grant amount available for a single project shall not exceed fifty thousand dollars ($50,000). As a condition of making a grant, the director shall require the applicant to match not less than 20 percent of the amount granted. The required match may be cash or in-kind contributions, or a combination of both. In-kind contributions may include, but shall not be limited to, staff and volunteer services.

SEC. 6. Section 1588.5 of the Health and Safety Code is amended to read:

1588.5. In developing policies and priorities pertaining to the allocation of grant funds, the state department shall give primary consideration to the following factors:

(a) The applicant's need for funds.

(b) The demonstrated community support for the project.

(c) The applicant's long-term prospects for financial stability.

(d) The applicant's demonstrated marketing strategies.

(e) The applicant's ability to provide innovative services and to

coordinate other services in the continuum of care.

(f) Special consideration shall be given to any applicant who is in any one of the following categories:

(1) Applicants in rural areas.

(2) Applicants in counties where there are no other centers.

(3) Applicants who deliver services in an area with a high elderly ethnic minority population.

(4) Applicants who are located in a service area with a high percentage of elderly Medi-Cal beneficiaries when compared to the total elderly population of the service area.

SEC. 7. Section 1588.7 of the Health and Safety Code is amended to read:

1588.7. (a) The state department shall adopt specific guidelines for the establishment of grant-supported activities, including criteria for evaluation of each activity and monitoring to assure compliance with grant conditions and applicable regulations of the state department. The guidelines shall be developed in consultation with the Long-Term Care Committee. Funds shall not be awarded until the proposal receives favorable recommendation from the local adult day health care planning council, as established pursuant to Section 1572.5, and is approved by the state department.

(b) The state department shall develop a contract with each selected project.

SEC. 8. Section 1589.5 of the Health and Safety Code is amended to read:

1589.5. (a) One million dollars ($1,000,000) is hereby appropriated, without regard to fiscal year, from the General Fund to the Department of Aging to provide grants and to defray state administrative expenses incurred pursuant to this article.

(b) The amount of one million five hundred thousand dollars ($1,500,000) is hereby appropriated without regard to fiscal year, from the General Fund to the Department of Aging for the purposes prescribed by subdivision (a). This sum is in addition to any unexpended portion of the one million dollars ($1,000,000) appropriated by subdivision (a).

(c) State administrative costs on grants issued pursuant to this article shall not exceed 10 percent of the amount of the grants.

SEC. 9. Section 14575 of the Welfare and Institutions Code is amended to read:

14575. Each adult day health care provider shall maintain a uniform accounting and reporting system as developed by the department, in consultation with the provider. The provider shall submit annual cost reports to the department no later than three months after the close of the facility's fiscal year. The report shall be submitted in the format prescribed by the state. Each facility shall maintain, for a period of three years following the submission of annual cost reports, financial and statistical records of the period covered by the cost reports which are accurate and in sufficient detail to substantiate the cost data reported. These records shall be

made available to state or federal representatives upon request. The department may request a financial review performed by an independent certified public accountant as part of the provider's annual report. All certified financial statements shall be filed with the department within a period no later than three months after the department's request. The department may require a limited or complete certified public accountant audit when the monitoring activities carried out pursuant to Section 14573 reveal significant financial management deficiencies.

CHAPTER 1306

An act to amend Section 1660.8 of the Vehicle Code, relating to education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1985. Filed with Secretary of State September 30, 1985.]

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

SECTION 1. The Legislature hereby finds that the level of alcohol, drug, and other substance abuse by children in some California public schools has reached an epidemic proportion and is resulting in a serious health danger.

The Legislature further finds that public school-based programs to combat substance abuse are likely to be successful.

SEC. 2. Section 1660.8 of the Vehicle Code is amended to read:

1660.8. The money in the First Offender Program Evaluation Fund shall be used only for purposes of evaluating first offender programs; for purposes of educational programs relating to alcohol, drug, or other substance abuse; and for the administration of the fund, and may be expended only upon appropriation of the Legislature.

This section shall remain in effect only until July 1, 1987, and as of that date is repealed. Any moneys remaining in the fund and unencumbered at that time shall be transferred to the General Fund.

SEC. 3. In order to reduce and prevent student substance abuse, the State Department of Education, and the Department of Justice by way of their School-Law Enforcement Partnership, in cooperation with the Department of Alcohol and Drug Programs and the Office of Criminal Justice Planning, shall develop a year-round pilot program involving school activities, community activities, and summer programs employing a "positive role model" concept. Because most school children have a role model identification with a famous figure from the sports world, who has positively impressed them in some way, the program shall be focused on famous national and local celebrity athletes, both amateur and professional, who have

extensive knowledge and training in the field of substance abuse.

SEC. 4. The Superintendent of Public Instruction shall conduct a three-year pilot program that has been developed pursuant to Section 2, from July 1, 1985, to June 30, 1988, in selected regions of the state, as determined by the State Department of Education based on the "positive role model" concept.

The department shall contract with a qualified nonprofit organization to conduct the project and shall award the contract through a competitive request for proposals process. The department shall require nonprofit organizations to demonstrate that they are capable of providing matching or in-kind funds equivalent to at least 25 percent of the contract amount.

SEC. 5. The State Department of Education shall evaluate the effectiveness of the pilot program, and shall report the findings to the Legislature on or before September 1 of each year.

SEC. 6. (a) The sum of one hundred eighty-seven thousand two hundred fifty dollars ($187,250) is hereby appropriated from the General Fund to the Superintendent of Public Instruction for purposes of providing first-year funding for the pilot project authorized by Section 4 of this act.

(b) The sum of two hundred sixty-two thousand seven hundred fifty dollars ($262,750) is hereby appropriated from the First Offender Program Evaluation Fund to the Superintendent of Public Instruction for purposes of providing first-year funding for the pilot project authorized by Section 4 of this act.

(c) Not more than 5 percent of the funds made available by subdivisions (a) and (b) may be used by the Superintendent of Public Instruction for costs incurred in administering the pilot program. In carrying out this duty, the Superintendent of Public Instruction may accept private funding for the explicit purpose of expanding the program. It is the intent of the Legislature that funding for the second and third years of the pilot program be provided by annual appropriation in the Budget 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:

In order to have a program to curtail substance abuse by children as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 1307

An act to repeal Division 17 (commencing with Section 35000) of the Financial Code, and to amend Section 82 of, and to add Article 5 (commencing with Section 76) to Chapter 2 of Division 1 of, the Harbors and Navigation Code, relating to recreational marinas.

[Approved by Governor September 30, 1985. Filed with Secretary of State September 30, 1985.]

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

SECTION 1. Division 17 (commencing with Section 35000) of the Financial Code is repealed.

SEC. 2. Article 5 (commencing with Section 76) is added to Chapter 2 of Division 1 of the Harbors and Navigation Code, to read:

Article 5. Recreational Marinas

76. It is the intent of the Legislature that Harbors and Watercraft Revolving Fund moneys be used to implement the intent of Section 71.5 by providing loans directly to private recreational marina owners for the development, expansion, and improvement of boating facilities. It is the further intent of the Legislature that borrowers receiving loans not charge unreasonably high boat berthing fees at their harbor facilities, but that those borrowers be entitled to charge rates that provide for servicing of borrowed indebtedness obtained to develop those facilities, provide for other expenses incurred in operating the facilities, establish reasonable reserves for repairs, maintenance, and replacement of those facilities, and provide a reasonable return on the borrower's invested capital.

76.1. "Private marina owner" means a profit-oriented business enterprise which owns and operates, or intends to develop and operate, a small boat recreational facility providing boat berthing on a wet or dry storage basis and other improvements commonly found in a facility of that type on privately or publicly owned waters within this state.

76.2. "Recreational marina" means a marina owned by a private marina owner which is used by the public primarily for recreational purposes.

76.3. (a) The department may make loans to private marina owners for not more than 75 percent of the actual direct cost for labor and materials to develop a recreational marina. Loan funds from the department shall be utilized for berthing facilities, parking, public access facilities, restrooms, utilities, landscaping, and other incidental boating-related amenities.

(b) No loan made by the department to a private marina owner shall exceed 25 percent of the funds annually budgeted for purposes of this article.

(c) The department shall not make a loan to a recreational marina that restricts access or bars the public other than what is consistent with general commercial business practices.

(d) Any private marina owner who purchases facilities previously developed with a department loan is eligible to apply for a new construction loan from the department.

76.4. (a) An application for a loan under Section 76.3 shall be filed with the department and shall:

(1) Include a feasibility study containing sufficient information and detail to demonstrate that the project is engineeringly and financially feasible.

(2) Be processed with due diligence, giving consideration to the needs of the borrower and the interest of the public in preserving the integrity of the Harbors and Watercraft Revolving Fund.

(3) Include evidence of compliance with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(4) Include all costs incurred by the applicant in processing and obtaining loan proceeds.

(b) The costs of brokerage fees, planning studies, and all other costs for the preparation of the loan application shall be borne by the applicant.

76.5. In processing applications under this article, the department shall give priority to applications from private marina owners who have not received previous loans from the department. If the department finds a proposed loan project is feasible, the loan request shall be submitted to the commission for its advice and consent.

76.6. Loans made under this article shall include, but are not limited to, the following terms and conditions:

(a) The annual rate of interest charged by the department shall be a rate equal to 2 percent per annum plus the prevailing rate of interest existing in the marketplace for lending institutions' most creditworthy borrowers. For purposes of this article, the prevailing rate of interest existing in the marketplace for lending institutions' most creditworthy borrowers means the prime or base rate of interest.

(b) The department shall require collateral in the amount of 110 percent of the loan.

(c) The length of a loan shall not exceed 20 years, or be longer than the length of the borrower's leasehold estate, including renewal options, if the loan is based upon a leasehold estate of the borrower.

(d) All loans shall amortize the principal over the term of the loan. However, a loan shall become due and payable in full if the borrower sells or otherwise transfers the recreational marina developed with departmental funds, unless the transfer is, by reason of the death of the borrower, to the borrower's heirs, or the transfer is to another business entity controlled by the borrower in a transaction that does not result in a material change in control or ownership of the recreational marina.

(e) The department's loans shall not be subordinated to any future loans obtained by a private marina owner, except in those cases involving loans acquired for refinancing previous senior loans.

76.7. (a) All loans made by the department to private marina owners shall be funded from the Harbors and Watercraft Revolving

Fund.

(b) All loans, including those loans previously made under Section 35300 of the Financial Code, shall be repaid by private marina owners to the Harbors and Watercraft Revolving Fund.

(c) Private marina owners receiving loans made by the department shall not charge unreasonably high boat berthing fees.

(d) The department shall monitor the berthing fees of the private marina owners receiving department loans to ensure that these rates are not exorbitant.

76.8. The department may adopt regulations to implement or make this article more specific, including standards for the approval of loans, including, but not limited to, definitions of collateral, standards for the payment of loans, and the form of documents to be used to evidence loans. The purpose of the regulations shall be to ensure that loans made under this article conform with customary commercial practices.

76.9. The maximum amount of funds available for loans pursuant to Section 76.3 shall be according to the following schedule which shall be reviewed after the third year of the program:

(a) Fiscal year 1986–87	$1,000,000
(b) Fiscal year 1987–88	1,500,000
(c) Fiscal year 1988–89	2,000,000

SEC. 3. Section 82 of the Harbors and Navigation Code is amended to read:

82. The commission, in furtherance of the public interest and in accordance therewith, shall advise the department with respect to all matters within the jurisdiction of the department. The department shall submit any proposed changes in regulations pertaining to boating functions and responsibilities of the department to the commission for its review and comment prior to enactment of changes. The department shall submit proposals for transfers pursuant to Section 70, loans pursuant to Section 71.4 or 76.3, and grants pursuant to Section 72.5 to the commission for its advice and consent.

CHAPTER 1308

An act to add Sections 23606.1 and 24357.9 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 30, 1985 Filed with Secretary of State September 30, 1985]

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

SECTION 1. Section 23606.1 is added to the Revenue and Taxation Code, to read:

23606.1. (a) There shall be allowed as a credit against the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) an amount equal to 25 percent of the fair market value of qualified charitable contributions, not to exceed the basis of the property contributed.

(b) For purposes of this section, "qualified charitable contribution" means a charitable contribution of tangible personal property described in paragraph (1) of Section 1221 of the Internal Revenue Code, but only if all of the following conditions are met:

(1) The contribution is to any of the following:

(A) An educational organization which is described in subsection (b) (1) (A) (ii) of Section 170 of the Internal Revenue Code and which is not an institution of higher education (as defined in Section 3304(f) of the Internal Revenue Code) in this state.

(B) A Department of the Youth Authority education program or school or juvenile court school.

(C) A school in a state prison or county jail.

(D) A school or educational program in a state hospital.

(2) The contribution is made not later than one year after the date the construction of the property is substantially completed.

(3) The original use of the property is by the donee.

(4) The property is computer software all of the use of which by the donee is directly in the education of students of this state.

(5) The property is not transferred by the donee in exchange for money, other property, or services.

(6) The taxpayer receives from the donee a written statement representing that each of the following exists:

(A) The use and disposition of the software will be in accordance with this section.

(B) The software is usable and needed by the donee.

(C) No other offer has been received by the donee during the income year for the donation of comparable computer software which has a lower fair market value.

(7) The property has the approval of the donee.

(8) The contribution is made on or after January 1, 1986, and on or before December 31, 1987.

(9) The taxpayer reports to the Franchise Tax Board, on forms prescribed by the board, the name and address of the recipient educational organization, a description of the qualified charitable contribution, the fair market value of the contribution, and the date the contribution was made. The taxpayer forwards a copy of the forms, along with the written statements prescribed in paragraph (6), to the State Department of Education.

(c) The credit shall be in lieu of any deduction under this part to which the taxpayer otherwise may be entitled, if any.

(d) In the case of a taxpayer whose credits exceed its tax liability computed under this part (except the minimum franchise tax and

the tax on preference income) for the income year, the taxpayer shall be allowed a credit to the extent of that tax liability. At the election of the taxpayer, that portion of the credit which exceeds the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) may be carried over to the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) in succeeding income years, with respect to which this section shall remain in effect for purposes of carrying over excess credit, until the credit is used. The credit shall be applied first to the earliest income years possible.

(e) The Franchise Tax Board shall prescribe regulations as may be necessary to carry out the purposes of this section.

(f) If a federal income tax credit is enacted for qualified charitable contributions, then to the extent that credit is allowed or allowable for a qualified charitable contribution as defined in this section, the state credit provided in subdivision (a) shall be reduced so that the combined effective credit shall not exceed 25 percent of the fair market value of any qualified charitable contributions, notwithstanding the carryover provisions of subdivision (d).

SEC. 2. Section 24357.9 is added to Revenue and Taxation Code, to read:

24357.9. (a) In the case of a qualified research contribution, the amount otherwise allowed as a deduction under Section 24357, shall be reduced by that amount of the reduction provided by Section 24357.1 which is no greater than the sum of the following:

(1) One-half of the amount computed pursuant to Section 24357.1 (computed without regard to this paragraph).

(2) The amount (if any) by which the charitable contribution deduction under this section for any qualified research contribution (computed by taking into account the amount determined by paragraph (1), but without regard to this paragraph) exceeds twice the basis of the property.

(b) For purposes of this section, "qualified research contribution" means a charitable contribution by a taxpayer of tangible personal property described in paragraph (1) of Section 1221 of the Internal Revenue Code, but only if all of the following conditions are met:

(1) The contribution is to an educational organization which is described in subsection (b) (1) (A) (ii) of Section 170 of the Internal Revenue Code and which is an institution of higher education (as defined in Section 3304(f) of the Internal Revenue Code) in California.

(2) The contribution is made not later than two years after the date the construction of the property is substantially completed.

(3) The original use of the property is by the donee.

(4) The property is either of the following:

(A) Computer software substantially all of the use of which by the donee is for research or experimentation (within the meaning of Sections 24365 to 24368, inclusive), or for research training, in physical, applied, or biological sciences, or for instructional purposes.

(B) New or used ancillary or test equipment which is necessary for the installation, activation, diagnosis, maintenance, repair, or servicing of technological or scientific research or instructional equipment and which is part of an active educational or research laboratory of an educational organization. For purposes of used equipment covered by this subparagraph:

(i) The reference in this subdivision to "paragraph (1) of Section 1221 of the Internal Revenue Code" shall be deemed a reference to "paragraph (2) of Section 1221 of the Internal Revenue Code."

(ii) Paragraphs (2) and (3) shall not apply.

(iii) The used equipment must have been utilized by the donor in the construction, maintenance, or repair of scientific equipment or apparatus which is eligible for the deduction allowed by Section 24357.8.

(5) The property is not transferred by the donee in exchange for money, other property, or services.

(6) The taxpayer receives from the donee a written statement representing that each of the following exists:

(A) The use and disposition of the property will be in accordance with this section.

(B) With respect to computer software, substantially all of the use of which is for instructional purposes, it will be used as an integral part of the instructional program.

(C) With respect to ancillary or test equipment, it will be used in connection with research or instructional equipment.

(D) No other offer has been received by the donee during the income year for the donation of comparable computer software or comparable ancillary or test equipment which has a lower fair market value.

(7) The contribution is made on or after January 1, 1986, and on or before December 31, 1987.

(8) The taxpayer reports to the Franchise Tax Board, on forms prescribed by the board, the name and address of the recipient educational organization, a description of the qualified charitable contribution, the fair market value of the contribution, and the date the contribution was made. The taxpayer forwards a copy of the forms, along with the written statements prescribed in paragraph (6), to the following:

(A) The President of the University of California in the case of contributions to institutions within the University of California system.

(B) The California Postsecondary Education Commission, in the case of contributions to private institutions.

(C) The Chancellor of the California State University in the case of contributions to institutions within the California State University system.

(D) The Chancellor of the California Community Colleges, in the case of contributions to institutions within the California Community College system.

(c) For purposes of this section, the term "taxpayer" shall not include a service organization (as defined in Section 414(m)(3) of the Internal Revenue Code).

SEC. 3. No later than February 1, 1987, the Legislative Analyst shall submit a report to the Legislature which evaluates the effect of Sections 1 and 2 of this act. The report shall address all of the following:

(a) The revenue loss to the state.

(b) The type and value of property contributed to educational organizations.

(c) The distribution of equipment by geographic region, by size of school district or educational organization, and by any other appropriate indicator of the educational organizations' need for the equipment.

(d) The likely level of donations in 1988 and thereafter upon the elimination of the tax incentives provided by this act.

The report prescribed by this section shall address separately the effects of this act on higher education institutions and schools for kindergarten and grades 1 to 12, inclusive.

In preparing the report prescribed by this section, the Legislative Analyst shall consult with the Franchise Tax Board, the State Department of Education, the President of the University of California, the California Postsecondary Education Commission, the Chancellor of the California State University, and the Chancellor of the California Community Colleges.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 1309

An act to amend Section 23606 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 30, 1985. Filed with Secretary of State September 30, 1985]

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

SECTION 1. Section 23606 of the Revenue and Taxation Code is amended to read:

23606. (a) There shall be allowed as a credit against the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) an amount equal to 25 percent of the fair market value of qualified charitable contributions, not to exceed the basis of the property contributed.

(b) For purposes of this section, "qualified charitable contribution" means a charitable contribution of tangible personal property described in paragraph (1) of Section 1221 of the Internal

Revenue Code of 1954, but only if all of the following conditions are met:

(1) The contribution is to any of the following:

(A) An educational organization which is described in subsection (b) (1) (A) (ii) of Section 170 of the Internal Revenue Code of 1954 and which is not an institution of higher education (as defined in Section 3304 (f) of the Internal Revenue Code of 1954) in this state.

(B) A Department of the Youth Authority education program or school or juvenile court school.

(C) A school in a state prison or county jail.

(D) A school or educational program in a state hospital.

(2) The contribution is made not later than one year after the date the construction of the property is substantially completed.

(3) The original use of the property is by the donee.

(4) The property is a computer, scientific equipment, or apparatus all of the use of which by the donee is directly in the education of students of this state.

(5) The property is not transferred by the donee in exchange for money, other property, or services.

(6) The taxpayer receives from the donee a written statement representing that its use and disposition of the property will be in accordance with this section. In the case of a computer, the statement shall also represent that the donee has, or will acquire, necessary basic operational software and the means to provide trained staff to utilize the property.

(7) The property has the approval of the donee.

(8) The contribution is made during either of the following periods:

(A) On or after January 1, 1983, and on or before June 30, 1984.

(B) On or after January 1, 1985, and on or before December 31, 1986.

(9) The taxpayer shall report to the Franchise Tax Board, on forms prescribed by the board, the name and address of the recipient educational organization, a description of the qualified charitable contribution, the fair market value of the contribution, and the date the contribution was made. The taxpayer shall forward a copy of the forms, along with the written statements prescribed in paragraph (6), to the State Department of Education.

(c) The credit shall be in lieu of any deduction under this part to which the taxpayer otherwise may be entitled, if any.

(d) In the case of a taxpayer whose credits exceed its tax liability computed under this part (except the minimum franchise tax and the tax on preference income) for the income year, the taxpayer shall be allowed a credit to the extent of that tax liability. At the election of the taxpayer, that portion of the credit which exceeds the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) may be carried over to the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) in succeeding income years, with respect to

which this section shall remain in effect for purposes of carrying over excess credit, until the credit is used. The credit shall be applied first to the earliest income years possible.

(e) The credit shall be claimed on tax returns filed on or after July 1, 1983.

(f) The Franchise Tax Board shall prescribe regulations as may be necessary to carry out the purposes of this section.

(g) If a federal income tax credit is enacted for qualified charitable contributions, then to the extent that credit is allowed or allowable for a qualified charitable contribution as defined in this section, the state credit provided in subdivision (a) shall be reduced so that the combined effective credit shall not exceed 25 percent of the fair market value of any qualified charitable contributions, notwithstanding the carryover provisions of subdivision (d).

SEC. 2. No later than February 1, 1987, the Legislative Analyst shall submit a report to the Legislature which evaluates the effect of Section 23606 of the Revenue and Taxation Code since its enactment. The report shall address all of the following:

(a) The revenue loss to the state.

(b) The type and value of equipment contributed to educational organizations.

(c) The distribution of equipment by geographic region, by size of school district, and by any other appropriate indicator of the educational organizations' need for the equipment.

(d) The likely level of donations in 1987 and thereafter upon the elimination of the tax incentives provided by Section 23606 of the Revenue and Taxation Code.

In preparing the report prescribed by this section, the Legislative Analyst shall consult with the Franchise Tax Board and the State Department of Education.

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 1310

An act to amend Sections 1054.5, 1055, 1056, and 1059 of, to add Sections 1055.5 and 1070 to, and to add and repeal Section 1056.5 of, the Fish and Game Code, relating to licenses, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1985. Filed with Secretary of State September 30, 1985]

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

SECTION 1. Section 1054.5 of the Fish and Game Code is amended to read:

1054.5. The department may issue certificates, permits, licenses, license stamps, and license tags and shall collect for each certificate, permit, license, license stamp, or license tag issued the fees prescribed in this code or in regulations adopted pursuant to this code. No commissioner and no officer or employee of the department may issue licenses, license stamps, or license tags as a license agent pursuant to Section 1055.

SEC. 2. Section 1055 of the Fish and Game Code is amended to read:

1055. (a) The department may authorize any person, except a commissioner or an officer or employee of the department, to be a license agent to issue licenses, license stamps, and license tags. It may consign licenses, license stamps, and license tags to license agents without receiving payment therefor, upon application of the license agent and upon the giving of a bond or assigning a certificate of deposit, payable to the department, as provided in this article. It shall not consign any licenses, license stamps, and license tags to any license agent who fails to fully comply with Section 1055.5.

(b) A license agent authorized under subdivision (a) shall add a handling charge to the fees, which fees are prescribed in this code or in regulations adopted pursuant to this code, for licenses and license tags issued by the license agent in an amount, as follows:

(1) Fifty cents ($0.50) for each commercial fishing license or commercial passenger fishing boat license.

(2) Fifty cents ($0.50) for each sport fishing license or for each hunting license.

(3) Fifty cents ($0.50) for each deer tag application or bear tag application.

(c) No handling charge added under subdivision (b) shall be added for any hunting license stamp, sport fishing license stamp, or special use stamp.

(d) The handling charge added under subdivision (b) shall be incorporated into the total amount collected for issuing the license, license stamp, or license tag, but the handling charge shall not be included when determining license fees in accordance with Section 713. No license agent shall collect from the license applicant any amount which is less than the fee prescribed in this code, or in regulations adopted pursuant to this code, for any license, license stamp, or license tag issued.

(e) The handling charge required by subdivision (b) is the license agent's only compensation for services. No other additional fee or charge shall be made by the license agent for issuing licenses, license stamps, or license tags authorized under this section.

(f) In order to facilitate the prompt remittance of fees and more accurate accounting of licenses, license stamps, and license tags provided for issuance to license agents, the department shall provide each in books containing licenses, license stamps, or license tags that

do not exceed the total fees for 20 resident sportfishing licenses. This subdivision does not apply to nonresident licenses and nonresident license tags. This subdivision applies only to license years commencing on or after July 1, 1986.

(g) At any single business location, a license agent shall issue all items from a single book before commencing to issue licenses, license stamps, or license tags of the same series from another book.

(h) The department, alternatively, may provide for the issuance of licenses, license stamps, and license tags to authorized license agents and shall collect, in cash or cashier's check, at the time the documents are provided an amount equal to the fees for all of the licenses, license stamps, and license tags provided. Any license agent who pays the fees for licenses, license stamps, and license tags provided is exempt from subdivisions (a) and (e) of Section 1055.5, Section 1056, and Section 1059. Licenses, license stamps, and license tags provided pursuant to this subdivision and remaining unissued at the end of the license year may be returned to the department, within 60 days of their expiration date, for refund or credit, or a combination thereof.

(i) All unissued and expired licenses, license stamps, and license tags shall be returned to the department. Any license agent who does not return them within 20 days following the last day of the license year shall not be provided additional licenses, license stamps, or license tags until the unissued and expired licenses, license stamps, and license tags have been returned to the department. In addition, any unissued and expired item that is not returned within 60 days following the last day of the license year shall not be eligible for any refund or credit.

SEC. 3. Section 1055.5 is added to the Fish and Game Code, to read:

1055.5. (a) Except as provided in subdivision (c) or (d), each license agent authorized pursuant to Section 1055 shall remit to the department the fees prescribed in this code or in regulations adopted pursuant to this code for all licenses, license stamps, or license tags issued in each calendar month not later than 20 days following the last day of that calendar month. The transmittal of the fees to the department shall be accompanied with an accounting report on forms provided by the department of all licenses, license stamps, and license tags received, issued, remaining on hand, reported lost under subdivision (b), and returned to the department during the preceding month.

(b) A license agent shall report any losses of licenses, license stamps, or license tags, or any part or all of the fees received for them, to the department on or before the end of the next business day of the department.

(c) A license agent is not required to remit the fees for a book of licenses, license stamps, or license tags in any month if, on the last day of the preceding month, all items in that single book provided for issuance at a single business location are not issued. If, however,

all items in that book are issued, the license agent shall remit the fees for that book and transmit the accounting report in accordance with the requirements of this section.

(d) The license agent may retain not more than fifteen cents ($0.15) of the fee received for each Colorado River special use stamp issued pursuant to Section 7180 as compensation for services. The license agent shall remit to the department the fees prescribed by Section 7180, less any amounts retained under this subdivision, for all Colorado River special use stamps issued. The license agent shall remit the net fees with an accounting report as prescribed in subdivision (a).

(e) Except as provided in subdivision (c), any fee remittance and accounting report not transmitted to the department within 30 days following the last day of each calendar month is delinquent, and fees due are subject to interest and penalties prescribed in subdivision (b) of Section 1059. Interest and penalties shall be computed beginning 21 days following the last day of the calendar month in which the fees were collected.

SEC. 4. Section 1056 of the Fish and Game Code is amended to read:

1056. (a) Every person authorized to issue licenses, license stamps, and license tags under Section 1055 shall execute, in favor of the department, a bond or certificate of deposit, payable to the department, in a sum equal to the value of fees due from the licenses, license stamps, and license tags provided for issuance to that license agent. The bond or certificate of deposit shall secure the faithful accounting and payment to the department of the funds collected and the faithful performance of the duties imposed upon the license agent by this article.

(b) Any license agent who fails to transmit the fees or accounting reports required by Section 1055.5 not later than 60 days following the last day of that calendar month in which the fees were collected shall be bonded pursuant to subdivision (a) in order to continue as a license agent.

(c) The department may waive the requirements of subdivisions (a) and (b) if the license agent has fully complied with Section 1055.5 in each month of the preceding 12 months.

SEC. 5. Section 1056.5 is added to the Fish and Game Code, to read:

1056.5. Notwithstanding subdivision (c) of Section 1056, the department may waive the requirements of subdivision (a) of Section 1056 if the license agent has not been delinquent since July 1, 1985.

This section shall become operative on the operative date of the act enacting this section, and as of July 1, 1986, is repealed, unless a later enacted statute, which becomes effective on or before July 1, 1986, deletes or extends the dates on which it becomes inoperative or is repealed.

SEC. 6. Section 1059 of the Fish and Game Code is amended to

read:

1059. (a) The failure or refusal of any license agent to account for licenses, license stamps, or license tags, or any fees received from their issuance as required by Section 1055.5 or upon demand by an authorized representative of the department is a misdemeanor.

(b) In addition to subdivision (a), any license agent who fails to remit fees to the department on or before the date required by Section 1055.5 shall pay interest and penalties prescribed for sales and use taxes and, except as otherwise provided in this code, the department shall collect amounts owing under the procedures prescribed for sales and use taxes provided in Chapter 5 (commencing with Section 6451) and Chapter 6 (commencing with Section 6701) of Part 1 of Division 2 of the Revenue and Taxation Code, insofar as they may be applicable, and for those purposes, "board" means the department.

SEC. 7. Section 1070 is added to the Fish and Game Code, to read:

1070. (a) The department shall transmit monthly to the Department of Finance, for review, a summary report of the fee remittances and accounting reports received under Section 1055.5 and a delinquency report containing the name and address of any person who failed or refused to fully comply with Section 1055.5. The summary fee remittance and accounting report and the delinquency report shall be transmitted to the Department of Finance not later than 45 days following the last day of the calendar month for which the fee remittances and accounting reports were due under Section 1055.5.

(b) During 1986 and 1987 the Auditor General shall conduct an annual examination and report pursuant to Sections 10528 and 10534 of the Government Code of the fee remittances and accounting reports submitted to the department under Section 1055.5 and the summary fee remittance and accounting reports and the delinquency reports submitted to the Department of Finance under subdivision (a).

SEC. 8. (a) Notwithstanding Section 10503.1 or 10520 of the Government Code, the Auditor General shall conduct a compliance audit and investigation of the accounting for, and fees received from, all licenses, license stamps, and license tags issued to or by any license agent authorized by the department under Section 1055 of the Fish and Game Code since July 1, 1980, and the accounting for all licenses, license stamps, and license tags consigned to license agents authorized under Section 1055 of the Fish and Game Code and for all fees received for licenses, license stamps, or license tags issued by license agents, as part of the 1984–85 annual audit conducted pursuant to Section 10534 of the Government Code, and the Auditor General shall report thereon to each house of the Legislature on or before January 1, 1986. The compliance audit conducted under this subdivision is in addition to any annual audit conducted pursuant to Section 10528 of the Government Code.

(b) The compliance audit and investigation conducted under

subdivision (a) shall include, but not be limited to, the following:

(1) The accounting for fees received from all licenses, license stamps, and license tags issued by any license agent since January 1, 1980.

(2) The accounting for all licenses, license stamps, and license tags consigned to any license agent since January 1, 1980.

(3) The collection of fees due to the Department of Fish and Game from licenses, license stamps, and license tags issued by license agents since July 1, 1980.

(4) A review of the adequacy of accounting, collection, and assessment procedures used for the collection and enforcement of collection of fees owed the state by license agents.

SEC. 9. The Auditor General shall provide to the Department of Fish and Game technical assistance to enable the Department of Fish and Game to have the reporting forms necessary, and to have the recordkeeping, accounting, and monitoring systems required to implement the provisions of this bill by November 15, 1985. In addition, the Auditor General shall also report to the Legislature on or before January 15, 1986, whether, or to what extent the provisions of this bill are being fully implemented by the Department of Fish and Game.

SEC. 10. The sum of one hundred thirty thousand dollars ($130,000) is hereby appropriated from the General Fund to the Controller for allocation as follows:

(1) Eighty thousand dollars ($80,000) to the Joint Legislative Audit Committee for expenditure in the 1985–86, 1986–87, and 1987–88 fiscal years for the purposes of the examination and report prescribed in subdivision (b) of Section 1070 of the Fish and Game Code and in the compliance audit and investigation prescribed in Section 8 of this act. The Legislature finds and declares that expenditure of these funds for the compliance audit is a necessary and proper expenditure to prevent misappropriation of funds paid by the people and to reduce the need for future appropriations from sources other than the Fish and Game Preservation Fund.

If Assembly Bill 617 of the 1985–86 Regular Session of the Legislature is enacted and becomes operative on or before January 1, 1986, it is the intent of the Legislature that funding in the 1986–87 fiscal year and subsequent fiscal years for the examination and report prescribed in subdivision (b) of Section 1070 of the Fish and Game Code and the compliance audit and investigation prescribed in Section 7 of this act shall be made from the Fish and Game Preservation Fund. If Assembly Bill 617 does not become operative on or before January 1, 1986, it is the intent of the Legislature that the funding shall be made from the General Fund.

(2) Fifty thousand dollars ($50,000) to the Department of Finance for expenditure in the 1985–86 fiscal year to perform a feasibility study of various alternatives for the distribution, accounting, and issuance of licenses, license stamps, and license tags to the public. The Department of Finance shall submit a report containing its

findings and recommendations resulting from this study to the Legislature on or before July 1, 1986.

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. This act is an urgency statute necessary for the immediate preservation of 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 identify and correct inadequacies and to clarify reporting and accounting duties of the Department of Fish and Game and its authorized license agents in the fiscal programs of the department and to reduce or eliminate additional financial losses to the state at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1311

An act to amend Sections 68071, 69900, 70046.2, 70047.1, 70059.7, 73084.1, 73084.2, 73084.3, 73084.4, 73084.5, 73084.6, 73342, 73351, 73353, 73354, 73357, 73358, 73359, 73360, 73361, 73362, 73682, 73683, 73684, 73691, 73692, 73773, 73793, 73796, 73797, 73798, 74001.5, 74004, 74023, 74024, 74025, 74030, 74135.1, 74191.7, 74192, 74193, 74201, 74502, 74503, 74504, 74507, 74604, 74607, 74610, 74642, 74643, 74644, 74645, 74647, 74783, 74784, 74785, 74788, 74955, 74982, 74984, 74985, 74986, and 74787 of, to add Sections 73351.1, 73353.1, 73354.1, 73777, and 74196.5 to, to repeal Sections 74027, 74028, and 74029 of, and to repeal and add Sections 74134, 74135, 74136, 74137, 74138, 74139, 74141, 74142, 74143, and 74144 of, the Government Code, relating to courts.

[Approved by Governor September 30, 1985. Filed with Secretary of State October 1, 1985.]

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

SECTION 1. Section 68071 of the Government Code is amended to read:

68071. No rule adopted by a superior, municipal, or justice court shall take effect until the January 1 or July 1, whichever comes first, following the 30th day after it has been filed with the Judicial Council, but the court may specify an earlier effective date if the presiding judge certifies to the Judicial Council that it is necessary for the rule to take effect earlier. Copies of such rules and amendments shall be filed with the clerks of the respective courts and be available for public examination.

SEC. 1.5. Section 69900 of the Government Code is amended to read:

69900. In the City and County of San Francisco, a majority of the judges of the superior court may appoint the following employees, whose monthly salaries shall be as set forth hereafter:

Title	Class Number
One executive officer	0555
One assistant executive officer	0584
One administrative assistant	0585
One civil courts coordinator	0588
One criminal courts coordinator	0638
One mental health coordinator	0657
One pre-trial assistant and statistician	0636
One civil jury coordinator	0586
One criminal jury coordinator	0587
Six court commissioners	0620
Four assistant court commissioners	0635
One director, family court services	0640
Five counselors family court services	0655
One chief court calendar clerk	0670
One assistant court calendar clerk	0672
Three court investigators	0648
Three probate examiners	0649
Two court assistants senior	0590
Five court assistants	0589
One research assistant to presiding judge	0735
Seven research assistants	0676
One secretary to executive officer	0679
Four judicial secretaries	0680
Nine judicial clerks senior	0681
Two information clerks	0705
Three judicial clerks	0697
Twenty-eight court reporters	0710

The class numbers set forth in the previous paragraph refer to the superior court position classifications contained in the salary ordinance of the City and County of San Francisco. Those positions shall be paid monthly the equivalent amount as specified in the salary ordinance.

All salaries for original appointments shall be at step 1, provided that on the first of the month following the first anniversary of the employee's appointment he or she shall advance to the second step, and thereafter on the first of the month following the second anniversary of the employee's appointment he or she shall advance to step 3, and thereafter on the first of the month following the third anniversary of the employee's appointment he or she shall advance to step 4, and thereafter shall be paid at the rate established by step 4.

Service in any position enumerated herein prior to the effective date of the amendments to this section enacted at the 1983–84 Regular Session of the Legislature shall constitute service for the purpose of determining the step at which the attaché is to be paid. Service in any position wherein substantially the same duties have been performed shall also be deemed service for the purpose of determining at which step the attaché is to be paid.

Employment by the court shall be deemed to be employment by the city and county, if approved by resolution of the court, for purposes of determining court employees' rights to sick leave, vacation, and holiday pay and accumulation thereof, as provided either by charter or ordinances of the city and county for miscellaneous employees.

With the approval of the board of supervisors the court may establish such additional titles and pay rates as are required and with the approval of the board of supervisors may appoint and employ such additional commissioners, officers and assistants and other employees as it deems necessary for the performance of the duties and exercise of the powers conferred by law upon it and its members.

Rates of compensation of all officers and assistants and other employees may be altered by joint action and approval of the board of supervisors and a majority of the judges of the court. Such appointments or changes in compensation made pursuant to this paragraph shall be on an interim basis and shall expire on January 1 of the second year following the date of the appointment or change in compensation unless ratified by the Legislature.

The salaries of the employees of the superior court shall be paid by the city and county.

SEC. 2. Section 70046.2 of the Government Code is amended to read:

70046.2. In Fresno County, each reporter shall be paid an annual salary established according to the following salary schedule:

Step 1. $27,273
Step 2. 28,638
Step 3. 30,057
Step 4. 31,559

Reporters shall initially be placed at step 1 of the salary schedule except reporters may be placed at a higher step with the approval of the county administrative officer, and shall advance one step annually upon the anniversary date of the employment. If, because of recruitment difficulties, it is necessary to appoint a court reporter at a step of the salary schedule which is above the step at which any court reporters are currently employed, all court reporters below that step will move to the higher step at the discretion of the judges of the court.

Each pro tempore reporter shall be paid one hundred four dollars and ninety cents ($104.90) for a full day on duty under order of the court. For purposes of receiving the above compensation, one or more of the following shall apply:

(1) The court has indicated in advance that the pro tempore assignment is for a full day.

(2) The pro tempore reporter, having accepted a full-day assignment, has not voluntarily relinquished his or her services at or before the end of four hours of service.

(3) The pro tempore reporter was on duty for more than four hours.

Each pro tempore reporter shall be paid sixty-two dollars and ninety-four cents ($62.94) for one-half day of duty under order of the court when (a) the court has indicated in advance that the pro tempore assignment is for a half day and the pro tempore reporter is on duty for four hours or less, generally exclusive of the noon recess; or (b) the court has indicated in advance that the pro tempore assignment is for a full day but the pro tempore reporter is on duty for four hours or less and consents to being released for the balance of the day.

Where a pro tempore reporter has agreed to a one-half day assignment, the courts shall make every practicable effort to assure that the pro tempore reporter shall not be on duty for longer than four hours, unless the pro tempore reporter agrees with the court to work beyond four hours. In the latter case, the full-day pro tempore rate of one hundred four dollars and ninety cents ($104.90) shall apply.

Nothing herein shall be construed to limit the court's authority to in all instances pay a pro tempore reporter at the rate of one hundred four dollars and ninety cents ($104.90) when, in the court's judgment, said rate is necessary to obtain pro tempore reporter services for the court.

In addition to the salary herein provided, each regularly employed reporter shall accrue and be entitled to receive sick leave benefits at the rate of 3.6924 hours of sick leave with pay for each pay period or major fraction thereof, served up to an accumulative total of 156 working days. Each such reporter shall accrue and receive vacation at the same rate as judges of such court not to exceed 21 working days a year which may be accrued not to exceed 42 days to be taken at such time as the judge to which he has been assigned consents.

In such county the fee required by Section 70053 shall be eleven dollars and fifty cents ($11.50).

SEC. 3. Section 70047.1 of the Government Code is amended to read:

70047.1. (a) In Stanislaus County, the duties of official reporters shall be performed as provided by law. As full compensation for taking notes in criminal cases in the superior court, each reporter shall receive a monthly salary of one thousand nine hundred sixty dollars ($1,960), pro tempore reporters shall receive seventy-five dollars ($75) per day, or any part of a day, for reporting criminal matters, and the fee for reporting testimony and proceedings in civil contested cases is one hundred ten dollars ($110) a day, or any part of a day.

(b) For purposes of retirement, the compensation of a reporter is

deemed to be the total of all per day and transcription fees paid by the county to all of the reporters of the superior court for all phonographic reporting services divided by the number of superior court official reporters, plus the reporter's salary. All other fees of reporters shall be as otherwise provided by law. When it is necessary to appoint a pro tempore reporter, the reporter shall be allowed the fees otherwise provided by law.

(c) The salary range of official court reporters may be adjusted by joint action and approval of the board of supervisors and a majority of the judges of the superior court. Any changes in compensation made pursuant to this subdivision shall be on an interim basis and shall expire January 1 following adjournment of the next regular session of the Legislature, unless ratified at that session.

SEC. 4. Section 70059.7 of the Government Code is amended to read:

70059.7. In Santa Barbara County each regular official reporter shall be paid a biweekly salary which shall be one thousand two hundred ninety-seven dollars and ninety-three cents ($1,297.93) which salary shall include payment for services in reporting all proceedings in the superior court, before the grand jury, and before coroners' inquests.

Reporters pro tempore shall be paid at the per diem rate of one hundred twenty-nine dollars ($129) for the days they are actually on duty under order of the court, and shall receive from the county their necessary traveling and other expenses when necessarily called from other counties. Rates of compensation of regular official reporters and official reporters pro tempore may be adjusted by joint action and approval of the board of supervisors and a majority of the judges of the court, provided, however, that any changes in compensation which are made pursuant to this section shall be on an interim basis and shall remain in effect only until January 1, 1987, unless ratified by statute by the Legislature prior to that date.

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

In addition to any fee otherwise required, in all contested civil trials wherein the services of a court reporter have been requested by any party to the action, a per diem fee shall be charged to the party requesting such service, or, at the discretion of the court, to the parties on a pro rata basis, for each day of court reporting service or portion thereof, equal to the per diem rate established for pro tempore reporters of the court. If the court assesses the reporter's fee on a pro rata basis, the reporter and fee attached thereto may be waived upon the timely stipulation of all parties. Fees in long-cause civil trials shall be posted with the clerk's office no later than 14 days prior to the date set for master calendar. Fees in short-cause civil trials of one day or less, shall be posted with the clerk's office no later than seven days prior to the date set for the short-cause calendar.

SEC. 6. Section 73084.1 of the Government Code is amended to read:

73084.1. The clerk and administrative officer of the municipal court for the Alameda Judicial District may appoint the following deputy clerks:

(a) One chief deputy clerk.
(b) Two deputy clerks, municipal courtroom clerk.
(c) Two deputy clerks, supervising municipal court clerk I.
(d) One deputy clerk, senior municipal court clerk.
(e) Five deputy clerks, municipal court clerk.
(f) One deputy clerk, clerk II.
(g) One deputy clerk, accounting technician.
(h) One deputy clerk, intermittent I.

Not more than one such deputy clerk may be assigned as court interpreter at the additional percentage compensation provided for county employees required to possess bilingual capabilities.

SEC. 7. Section 73084.2 of the Government Code is amended to read:

73084.2. The clerk and administrative officer of the municipal court for the Berkeley-Albany Judicial District may appoint the following deputy clerks:

(a) One chief deputy clerk.
(b) Three deputy clerks, supervising municipal court clerk II.
(c) Five deputy clerks, municipal courtroom clerk.
(d) Five deputy clerks, senior municipal court clerk.
(e) Seven deputy clerks, municipal court clerk.
(f) Six deputy clerks, clerk II.
(g) One deputy clerk, secretary II.
(h) One deputy clerk, accounting technician.
(i) One deputy clerk, account clerk II.
(j) One deputy clerk, account clerk I.
(k) Two deputy clerks, data input clerk.

Not more than three such deputy clerks may be assigned as court interpreter at the additional percentage compensation provided for county employees required to possess bilingual capabilities.

SEC. 8. Section 73084.3 of the Government Code is amended to read:

73084.3. The clerk and administrative officer of the municipal court for the Oakland-Piedmont-Emeryville Judicial District may appoint the following deputy clerks:

(a) One chief deputy clerk.
(b) Three deputy clerks, division chiefs. The clerk and administrative officer may transfer the division chiefs from one division to another regardless of any resulting change in salary as set forth in subdivision (a) of Section 73086.
(c) Four deputy clerks, assistant division chiefs.
(d) One deputy clerk, calendar coordinator.
(e) Six deputy clerks, supervising municipal court clerk II.
(f) Sixteen deputy clerks, municipal courtroom clerk.
(g) Six deputy clerks, supervising municipal court clerk I.
(h) Six deputy clerks, senior municipal court clerk.

(i) Fifty-one deputy clerks, municipal court clerk.
(j) Thirteen clerks, clerk II.
(k) One deputy clerk, supervising secretary II.
(*l*) Three deputy clerks, secretary I.
(m) Thirteen deputy clerks, data input clerk.
(n) One deputy clerk, information systems analyst.

Not more than eight such deputy clerks may be assigned as court interpreters at the additional percentage compensation provided for county employees required to possess bilingual capabilities.

SEC. 9. Section 73084.4 of the Government Code is amended to read:

73084.4. The clerk and administrative officer of the municipal court for the San Leandro-Hayward Judicial District may appoint the following deputy clerks:

(a) One chief deputy clerk.
(b) Three deputy clerks, division chiefs. The clerk and administrative officer may transfer such division chiefs from one division to another regardless of any resulting change in salary as set forth in Section 73086.
(c) Eight deputy clerks, municipal courtroom clerk.
(d) Three deputy clerks, supervising municipal court clerk I.
(e) One deputy clerk, senior municipal court clerk.
(f) Thirty-three deputy clerks, municipal court clerk.
(g) Two deputy clerks, clerk II.
(h) One deputy clerk, secretary I.
(i) One deputy clerk, supervising accountant I.
(j) One deputy clerk, account clerk II.
(k) Three deputy clerks, data input clerk.
(*l*) One deputy clerk, staff services assistant.

Not more than three such deputy clerks may be assigned as court interpreters at the additional percentage compensation provided for county employees required to possess bilingual capabilities.

SEC. 10. Section 73084.5 of the Government Code is amended to read:

73084.5. The clerk and administrative officer of the municipal court for the Fremont-Newark-Union City Judicial District may appoint the following deputy clerks:

(a) One chief deputy clerk.
(b) Six deputy clerks, municipal courtroom clerk.
(c) Three deputy clerks, supervising municipal court clerk II.
(d) Three deputy clerks, senior municipal court clerk.
(e) Twelve deputy clerks, municipal court clerk.
(f) Seven deputy clerks, clerk II.
(g) One deputy clerk, secretary I.
(h) One deputy clerk, supervising accountant I.
(i) One deputy clerk, account clerk II.
(j) One deputy clerk, account clerk I.
(k) Four deputy clerks, data input clerk.

Not more than three such deputy clerks may be assigned as court

interpreters at the additional percentage compensation provided for county employees required to possess bilingual capabilities.

SEC. 11. Section 73084.6 of the Government Code is amended to read:

73084.6. The clerk and administrative officer of the municipal court for the Livermore-Pleasanton Judicial District may appoint the following deputy clerks:

(a) One chief deputy clerk.

(b) Three deputy clerks, municipal courtroom clerk.

(c) Three deputy clerks, supervising municipal court clerk I.

(d) Two deputy clerks, senior municipal court clerk.

(e) Eight and one-half deputy clerks, municipal court clerk.

(f) One deputy clerk, accounting technician.

Not more than two such deputy clerks may be assigned as court interpreter at the additional percentage compensation provided for county employees required to possess bilingual capabilities.

SEC. 11.1. Section 73342 of the Government Code is amended to read:

73342. There shall be one marshal's office in Contra Costa County which shall serve all of the judicial districts of the county and shall maintain a branch office in the Bay Judicial District, Mt. Diablo Judicial District, and Delta Judicial District.

SEC. 11.2. Section 73351 of the Government Code is amended to read:

73351. There are the following classes of positions into which each of the positions of the municipal courts shall be assigned as prescribed in the section pertaining to each court.

(a) Deputy clerk I, which shall include all municipal courts assigned routine clerical tasks under continuous immediate supervision.

(b) Deputy clerk-data entry operator I, which shall include all municipal court employments at the entry level assigned to operate data entry devices for the purpose of entering and verifying a wide variety of data from coded or uncoded source documents.

(c) Deputy clerk II, which shall include all municipal court employments assigned clerical tasks requiring exercise of discretion as to methods and priorities and which supervision is available on a periodic basis only.

(d) Deputy clerk-data entry operator II, which shall include all municipal court employments at the experienced working level assigned to operate data entry devices for the purpose of entering and verifying a wide variety of data from coded or uncoded source documents.

(e) Deputy clerk-criminal process, which shall include all municipal court employments assigned complex clerical work in the criminal section of a municipal court involving responsibility for the establishment, maintenance, calendaring, issuance of process and updating of criminal case records using manual and automated systems.

(f) Deputy clerk III, which shall include all municipal court employments assigned clerical duties of a complex and varied nature requiring exercise of initiative and discretion in work organization, methods and priorities and in which supervision is available only on policy matters. Positions of this class may assign and review the work of several deputy clerks I, deputy clerks II, or deputy clerks-criminal process.

(g) Deputy clerk-courtroom clerk, which shall include all municipal court employments assigned clerical duties involving responsibility for keeping the minutes of court proceedings and the processing and maintenance of a variety of documents and records.

(h) Deputy clerk-division supervisor, which shall include all municipal court employments assigned responsibility for planning, organizing and directing the clerical activities of a division or branch office in a municipal court including the supervision of clerical staff.

(i) Chief deputy clerk, which shall include assisting in supervision and direction of court affairs, filling in for courtroom clerks and other employees during absences, and subject to the designation of the clerk-administrator, being responsible for court operations in the absence of the clerk-administrator.

(j) Clerk-administrator of the court, which shall include any municipal court position in a multijudge court (Schedule A in court with five through seven judges, Schedule B in court with two through four judges) charged with the overall responsibility for managing and supervising court clerical operations including courtroom duties.

(k) Court commissioner, which shall include all municipal court employments who exercise the same powers and duties of judges of the court with respect to traffic and small claims matters.

(*l*) Executive secretary, which shall be assigned to serve as the confidential secretary to the clerk-administrator.

(m) Supervising deputy clerk, which shall include all municipal court employments assigned responsibility for directing the clerical activities of a unit of a division in a municipal court including the supervision of several deputy clerks I, deputy clerks II, deputy clerks-criminal process, deputy clerks III, or deputy clerks-data entry operator I or II.

(n) Deputy clerk-senior data entry operator, which shall include all municipal court employments assigned to complex data entry activities of a varied nature. Positions of this class may assign and review the work of several deputy clerks-data entry operator I or II.

(o) Administrative analyst, which shall include all municipal court employments assigned administrative duties of a complex and varied nature involving budgetary computations, systems development and organizational tasks.

The board of supervisors may create a new class or classes by combining two or more of the above classes and specifying the number of positions for each new class and the compensation therefor, provided that the new class or classes shall be effective only until January 1 of the second year following the calendar year in which the

combination of classes is made.

SEC. 11.3. Section 73351.1 is added to the Government Code, to read:

73351.1. There are the following classes of positions into which each of the positions of the marshal's office shall be assigned as prescribed in the section pertaining to the marshal's office.

(a) Deputy clerk II, which shall include employments assigned clerical tasks requiring exercise of discretion as to methods and priorities and which suspervision is available on a periodic basis only.

(b) Marshal's process clerk, which shall include all employments assigned clerical duties of a complex and varied nature requiring exercise of initiative and discretion in work organization, methods and priorities and in which supervision is available only on policy matters. Positions of this class may assign and review the work of several deputy clerks II.

(c) Secretary, advanced level, which shall include one position assigned to serve as the confidential secretary to the marshal.

(d) Supervising process clerk, which shall include all employments assigned clerical duties of a complex and varied nature in which the incumbent plans, organizes and supervises the work of several deputy clerks II and marshal's process clerks.

(e) Marshal's clerical supervisor, which will include all employments assigned responsibility for planning, organizing and directing the clerical activities of the marshal's office, including the supervision of clerical staff.

(f) Deputy marshal-recruit, which shall not be a peace officer, and shall only be assigned to attend a basic academy course of study to gain POST approved peace officer status.

(g) Deputy marshal, which shall include all employments assigned to discharge the peace officer responsibilities of the marshal including establishment and maintenance of law and acting as bailiff when the municipal court is in session.

(h) Deputy marshal sergeant, which shall include any position responsible for assigning and reviewing the work of several deputy marshals in serving court process and other peace officer activities.

(i) Assistant marshal, which shall include any position responsible for assigning and reviewing the work of a deputy marshal sergeant and several deputy marshals in serving court processes and other peace officer activities or, who, under direction of the marshal, shall be responsible for day-to-day operation of the marshal's office.

(j) Marshal, which shall be the nonelective position responsible for the management and supervision of the duties of the office of marshal for all the judicial districts.

SEC. 11.4. Section 73353 of the Government Code is amended to read:

73353. Classes of positions provided in Section 73351 are allocated to the salary schedule as follows:

Class Title	Class Code	Pay Level
(a) Deputy clerk I	JPW1	C5-0824
(b) Deputy clerk-data entry operator I..	JPW2	C5-0922
(c) Deputy clerk II	JPV1	C5-0964
(d) Deputy clerk II-data entry operator II	JPV2	C5-1019
(e) Deputy clerk-criminal process	JPV3	C5-1023
(f) Deputy clerk III	JPT1	C5-1159
(g) Deputy clerk-courtroom clerk	JPN2	C5-1372
(h) Deputy clerk-division supervisor	JPD2	C5-1372
(i) Chief deputy clerk	JPB1	C5-1641
(j) Clerk-administrator of the court-Sch. B	JPA1	C5-1861
(k) Clerk-administrator of the court-Sch. A	JPA2	C5-1971
(*l*) Executive secretary	J3T5	C5-1340
(m) Supervising deputy clerk	JPB1	C5-1306
(n) Deputy clerk-senior data entry operator	J4XA	C5-1159
(o) Administrative analyst	APWA	C5-1278

SEC. 11.5. Section 73353.1 is added to the Government Code, to read:

73353.1. Classes of position provided in Section 73351.1 are allocated to the salary schedule as follows:

Class Title	Class Code	Pay Level
(a) Deputy clerk II	JPV1	C5-0964
(b) Deputy marshal recruit	6R71	C1-1076
(c) Marshal's process clerk	JPT2	C5-1159
(d) Secretary, advanced level	J3TD	T8-0943
(e) Supervising process clerk	JPN1	C5-1306
(f) Marshal's clerical supervisor	JPD3	C5-1372
(g) Deputy marshal	6RW1	C5-1495
(h) Deputy marshal sergeant	6RN1	C5-1641
(i) Assistant marshal	6RB2	C5-1904
(j) Marshal	6RA3	C3-2001

SEC. 11.6. Section 73354 of the Government Code is amended to read:

73354. Certain classifications in the municipal courts are deemed to be equivalent in job and salary level to certain classifications in the service of Contra Costa County and whenever the salary of a classification in the service of Contra Costa County is adjusted by the board of supervisors, the salary of the comparable classification in the municipal courts shall be adjusted a commensurate number of levels on the salary schedule. The adjustment shall be effective on the same day as the effective date of the action by the board of supervisors as it applies to the county classifications, but the adjustment shall be

effective only until January 1 of the second year following the calendar year in which the adjustment is made.

(a) The class of deputy clerk I is equivalent in job and salary level to the class of Clerk (beginning level A2 to A6) in the service of Contra Costa County. The class of deputy clerk II is equivalent to Clerk (experienced level).

(b) The class of deputy clerk-data entry operator I is equivalent in job and salary level to the class of data entry operator I in the service of Contra Costa County. The class of deputy clerk-data entry operator II is equivalent to data entry operator II. The class of deputy clerk-senior data entry operator is equivalent to senior data entry operator.

(c) Whenever the salary of the class of deputy clerk II is adjusted as described above, the class of deputy clerk-criminal process, deputy clerk III, deputy clerk-courtroom clerk, and supervising deputy clerk shall be adjusted an equivalent number of levels on the salary schedule.

(d) The position of municipal court reporter is equivalent in job responsibility to positions described and functioning as superior court reporters in Contra Costa County. Whenever the superior court reporters are authorized a basic salary adjustment, the salary of municipal court reporters shall be adjusted. The adjustment shall be effective on the same date as the superior court reporter salaries are adjusted.

(e) The class of deputy clerk-division supervisor and the class of deputy clerk-courtroom clerk shall be allocated to a salary level which is 213 salary levels on the salary schedule above that of deputy clerk III.

(f) The class of chief deputy clerk shall be allocated to a salary level which is 269 salary levels on the salary schedule above that of deputy clerk division supervisor.

(g) The class of clerk-administrator of the court (Schedule B and Schedule A) shall be allocated to a salary level which is 220 and 330 salary levels, respectively, on the salary schedule above that of chief deputy clerk.

(h) For commissioners appointed prior to July 1, 1985, the class of court commissioner shall be allocated to a five-step salary schedule, in 5 percent incremental steps with the fifth step equivalent to 85 percent of the salary of a superior court judge in the County of Contra Costa. For commissioners appointed on and subsequent to July 1, 1985, the class of court commissioner shall be allocated to a three-step salary schedule, in 5 percent incremental steps with the third step equivalent to 85 percent of the salary of a municipal court judge in the County of Contra Costa. Upon appointment, a new court commissioner shall be allocated to the first step of the schedule, except that an appointee with exceptionally high qualifications and experience may be appointed at a higher step with the board of supervisors' approval.

(i) The class of executive secretary is equivalent in job and salary

level to the class of executive secretary in the service of Contra Costa County.

(j) The class of administrative analyst is equivalent in job and salary level to the class of administrative analyst in the service of Contra Costa County.

SEC. 11.7. Section 73354.1 is added to the Government Code, to read:

73354.1. Certain classifications in the marshal's office are deemed to be equivalent in job and salary level to certain classifications in the service of Contra Costa County and whenever the salary of a classification in the service of Contra Costa County is adjusted by the board of supervisors, the salary of the comparable classification in the marshal's office shall be adjusted to commensurate number of levels on the salary schedule. The adjustment shall be effective on the same day as the effective date of the action by the board of supervisors as it applies to the county classifications, but those adjustments shall be effective only until January 1 of the second year following the calendar year in which the adjustment is made.

(a) The class of deputy clerk II is equivalent to clerk (experience level).

(b) Whenever the salary of the class of deputy clerk II is adjusted as described above, the class of marshal's process clerk shall be adjusted an equivalent number of levels on the salary schedule.

(c) The class of deputy marshal-recruit is equivalent in job and salary level to the class of deputy sheriff-recruit in the service of Contra Costa County.

(d) The class of deputy marshal is equivalent in job and salary level to the class of deputy sheriff in the service of Contra Costa County.

(e) The class of deputy marshal sergeant is equivalent in job and salary level to the class of deputy sheriff sergeant in the service of Contra Costa County.

(f) The class of assistant marshall shall be allocated to a salary level which is 67 levels on the C5 salary schedule above that of lieutenant in the service of Contra Costa County.

(g) The class of marshal shall be allocated to a salary level which is 8 levels on the C3 salary schedule above that of assistant marshal.

(h) The class of supervising process clerk shall be allocated to a salary level which is 147 salary levels on the salary schedule above that of marshal's process clerk.

(i) The class of secretary (advanced level) is equivalent in salary level to secretary, (advanced level), in the service of Contra Costa County.

(j) The class of marshal's clerical supervisor shall be allocated to a salary level which is 213 salary levels on the salary schedule above that of marshal's process clerk.

SEC. 11.8. Section 73357 of the Government Code is amended to read:

73357. In Contra Costa County, the following positions are au-

thorized:

(a) One marshal.

(b) Two assistant marshals.

(c) Four deputy marshal sergeants.

(d) Forty deputy marshals or deputy marshal-recruits, not to exceed a combined total of 40 positions at any one time.

(e) One secretary (advanced level).

(f) Three supervising process clerks.

(g) One marshal's clerical supervisor.

(h) Fifteen marshal's process clerks or deputy clerks II, not to exceed a combined total of 15 positions at any one time.

(i) Fifty deputy marshal keepers, who shall be custodians at the fee allowed by law for keeping property. They shall be paid only for their actual services as keepers of property taken under legal process and shall be paid out of the funds deposited by the parties to the action in which the services are rendered. Deputy marshal keepers serving under the provisions of this subdivision are not salaried employees of the judicial districts for purposes of obtaining merit system status or any other benefits of this article.

SEC. 11.9. Section 73358 of the Government Code is amended to read:

73358. In a municipal court district having five judges, the following positions are authorized:

(a) One clerk-administrator of the court (Schedule A).

(b) One chief deputy clerk.

(c) Five deputy clerk-division supervisors.

(d) Eight deputy clerk-courtroom clerks.

(e) Eighteen deputy clerks III.

(f) Sixteen deputy clerks-criminal process.

(g) Five deputy clerks-data entry operator II or I, not to exceed a combined total of five positions at any one time.

(h) Forty deputy clerks II or deputy clerks I, not to exceed a combined total of 40 positions at any one time.

(i) One executive secretary.

(j) Six supervising deputy clerks.

(k) One deputy clerk-senior data entry operator.

(*l*) One administrative analyst.

SEC. 12. Section 73359 of the Government Code is amended to read:

73359. In a municipal court district having four judges, the following positions are authorized:

(a) One clerk-administrator of the court (Schedule B).

(b) One chief deputy clerk.

(c) Four deputy clerk-division supervisors.

(d) Five deputy clerk-courtroom clerks.

(e) Fifteen deputy clerks III.

(f) Ten deputy clerks-criminal process.

(g) Eight deputy clerks-data entry operator II or I, not to exceed a combined total of eight positions at any one time.

(h) Twenty-two deputy clerks II or deputy clerks I, not to exceed a combined total of 22 positions at any one time.

(i) One executive secretary.

(j) Four supervising deputy clerks.

(k) One deputy clerk-senior data entry operator.

(*l*) One administrative assistant.

SEC. 12.1. Section 73360 of the Government Code is amended to read:

73360. In a municipal court district having three judges, the following positions are authorized:

(a) One clerk-administrator of the court Schedule B).

(b) One chief deputy clerk.

(c) Three deputy clerk-division supervisors.

(d) Four deputy clerk-courtroom clerks.

(e) Fifteen deputy clerks III.

(f) Eight deputy clerks-criminal process.

(g) Six deputy clerks-data entry operator II or I, not to exceed a combined total of six positions at any one time.

(h) Twenty-two deputy clerks II or deputy clerks I, not to exceed a combined total of 22 positions at any one time.

(i) One executive secretary.

(j) Four supervising deputy clerks.

(k) One deputy clerk-senior data entry operator.

(*l*) One administrative analyst.

SEC. 12.2. Section 73361 of the Government Code is amended to read:

73361. In a municipal court district having two judges, the following positions are authorized:

(a) One clerk-administrator of the court Schedule B).

(b) One chief deputy clerk.

(c) Three deputy clerk-division supervisors.

(d) Three deputy clerk-courtroom clerks.

(e) Ten deputy clerks III.

(f) Six deputy clerks-criminal process.

(g) Four deputy clerks-data entry operator II or I, not to exceed a combined total of four positions at any one time.

(h) Eighteen deputy clerks II or deputy clerks I, not to exceed a combined total of 18 positions at any one time.

(i) One executive secretary.

(j) Two supervising deputy clerks.

(k) One deputy clerk-senior data entry operator.

(*l*) One administrative assistant.

SEC. 12.3. Section 73362 of the Government Code is amended to read:

73362. Municipal court judicial districts in the County of Contra Costa may have no more than four court commissioners for all districts in total. Commissioners shall be appointed by a majority of the judges of the court or courts, or by the presiding judge in a two-judge court, to which the court commissioner is appointed. Commissioners

shall serve at the pleasure of the majority of the judges in the court or courts or at the pleasure of the presiding judge in a two-judge court and may be removed by a majority of the judges in their discretion. Within the jurisdiction of the court or courts and under the direction of the judges, commissioners shall exercise all the powers and perform all of the duties authorized by law to be performed by commissioners of superior courts and any additional powers and duties as may be prescribed by law. At the direction of the judges, commissioners may have the same jurisdiction and exercise the same powers and duties as the judges of the court with respect to any infraction or small claims action. The commissioners shall possess the same qualifications the law requires of a municipal court judge and shall not engage in the private practice of law. They shall be ex officio deputy clerks.

SEC. 13. Section 73682 of the Government Code is amended to read:

73682. There shall be one clerk to be appointed by the judges of the court in the manner provided by law who shall be the clerk, administrator, and secretary of the court. He or she shall receive a salary at range 1317 of the Fresno County Salary Resolution effective July 2, 1984.

SEC. 14. Section 73683 of the Government Code is amended to read:

73683. (a) The clerk may appoint the following court personnel who shall receive a salary at the range indicated in the Fresno County Salary Resolution.

(1) One Administrative Services Aide at salary range 684.
(2) One Administrative Secretary-Conf. at salary range 733.
(3) One Stenographer II-Conf. at salary range 496.
(4) One Stenographer I-Conf. at salary range 406.
(5) Three Chief Deputy Clerks at salary range 816.
(6) Twelve Court Clerks at salary range 660.
(7) Two Supervising Legal Process Clerks at salary range 732.
(8) Four Senior Legal Process Clerks at salary range 711.
(9) Thirteen Legal Process Clerks II at salary range 660.
(10) Thirteen Legal Process Clerks I at salary range 576.
(11) Forty-seven Office Assistants III at salary range 499.
(12) Forty-seven Office Assistants II at salary range 450.
(13) Forty-seven Office Assistants I at salary range 377.
(14) One Municipal Court Interpreter at salary range 580.

(b) Salary ranges indicated in paragraphs (2) through (8) and paragraphs (11) through (14) of subdivision (a) are effective July 2, 1984. Salary ranges indicated in paragraphs (1), (9), and (10) of subdivision (a) are effective December 3, 1984.

(c) The clerk may appoint any combination of stenographers described in paragraphs (3) and (4) of subdivision (a) not to exceed a total of one, and may appoint any combination of the specified number of personnel indicated in each of paragraphs (5) through (13) of subdivision (a) not to exceed a total of 62.

(d) The clerk may appoint the following court personnel in the Clovis Branch who shall receive a salary at the range indicated in the Fresno County Salary Resolution:

(1) One Court Clerk at salary range 660.
(2) One Supervising Legal Process Clerk at salary range 732.
(3) Six Legal Process Clerks II at salary range 660.
(4) Six Legal Process Clerks I at salary range 576.
(5) Six Office Assistants III at salary range 499.
(6) Six Office Assistants II at salary range 450.
(7) Six Office Assistants I at salary range 377.

(e) Salary ranges indicated in paragraphs (1), (2), and (5) through (7) of subdivision (d) are effective July 2, 1984. Salary ranges indicated in paragraphs (3) and (4) of subdivision (d) are effective December 3, 1984.

The clerk may appoint any combination of the specified number of personnel indicated in each of paragraphs (2) through (7) of subdivision (d) not to exceed a total of six.

SEC. 15. Section 73684 of the Government Code is amended to read:

73684. The biweekly salaries of the following classes of positions shall be in accordance with the following schedule:

Position	Range	1	2	3	4	5
Municipal court clerk	1317	1317	1383	1452	1525	1601
Administrative services aide	684	684	718	754	792	832
Chief deputy clerk	816	816	857	900	945	992
Court clerk	660	660	693	728	764	802
Supervising legal process clerk	732	732	769	807	847	889
Senior legal process clerk	711	711	747	784	823	864
Municipal court interpreter	580	580	609	639	671	705
Legal process clerk II	660	660	693	728	764	802
Legal process clerk I	576	576	605	635	667	700
Administrative secretary-conf.	733	733	770	809	849	891
Stenographer II-conf.	496	496	521	547	574	603
Stenographer I-conf.	406	406	426	447	469	492
Office assistant III	499	499	524	550	578	607
Office assistant II	450	450	473	497	522	548
Office assistant I	377	377	396	416	437	459

Except as specifically provided in this article to the contrary, all benefits, privileges and other provisions affecting the employment of county employees shall apply to all officers and attachés of the municipal court.

SEC. 16. Section 73691 of the Government Code is amended to read:

73691. A majority of the judges may appoint nine full-time court reporters to serve at the pleasure of the judges and to be paid an annual salary established according to the following salary schedule:

Step 1. $27,273
Step 2. 28,638
Step 3. 30,057
Step 4. 31,559

Reporters shall initially be placed at step 1 of the salary schedule except reporters may be placed at a higher step with the approval of the county administrative officer, and shall be advanced one step annually upon the anniversary date of such employment. If, because of recruitment difficulties, it is necessary to appoint a court reporter at a step of the salary schedule which is above the step at which any court reporters are currently employed, all court reporters below that step will move to the higher step at the discretion of the judges of the court. Each such reporter shall accrue and be entitled to receive sick leave benefits at the rate of 3.6924 hours of sick leave with pay for each pay period or major fraction thereof, served up to an accumulative total of 156 working days. Each such reporter shall accrue and receive vacation at the same rate as judges of such court not to exceed 21 working days a year which may be accrued not to exceed 42 days to be taken at such time as the judge to which he has been assigned consents.

SEC. 17. Section 73692 of the Government Code is amended to read:

73692. Pursuant to Section 72194, the judges of the court may appoint as many additional reporters as the business of the court requires, who shall be known as official reporters pro tempore. They shall serve without salary but shall receive the fees provided by Sections 69947 to 69953, inclusive, except that in lieu of the per diem fees provided in the section for reporting testimony and proceedings the official reporters pro tempore shall be paid in accord with the following:

Each pro tempore reporter shall be paid one hundred four dollars and ninety cents ($104.90) for a full day on duty under order of the court. For purposes of receiving the above compensation, one or more of the following shall apply:

(1) The court has indicated in advance that the pro tempore assignment is for a full day.

(2) The pro tempore reporter was on duty for more than four hours.

Each pro tempore reporter shall be paid sixty-two dollars and ninety-four cents ($62.94) for one-half day of duty under order of the court when (a) the court has indicated in advance that the pro tempore assignment is for a half day and the pro tempore reporter is on duty for four hours or less, generally exclusive of the noon recess; or (b) the court has indicated in advance that the pro tempore assignment is for a full day but the pro tempore reporter is on duty for four hours or less and consents to being released for the balance of the day.

Where a pro tempore reporter has agreed to a one-half day assignment, the courts shall make every practicable effort to assure that the pro tempore reporter shall not be on duty for longer than four hours, unless the pro tempore reporter agrees with the court to work beyond four hours. In the latter case, the full-day pro tempore rate of one hundred four dollars and ninety cents ($104.90) shall apply.

Nothing herein shall be construed to limit the court's authority to in all instances pay a pro tempore reporter at the rate of one hundred four dollars and ninety cents ($104.90) when, in the court's judgment, said rate is necessary to obtain pro tempore reporter services for the court.

The above payments shall upon order of the court be a charge against the general fund of the county.

SEC. 18. Section 73773 of the Government Code is amended to read:

73773. (a) The clerk, with the approval of the judges of the court, may appoint one chief deputy clerk, 15 deputy clerks grade IV, 17.5 deputy clerks grade III, 13.3 deputy clerks grade II, 9.5 deputy clerks grade I, 7 intermediate typists, 1 secretary, 1 CRT/key operator, 5 court reporters, and such other employees as the board of supervisors approve upon the recommendation of the municipal court, each of whom shall receive a salary recommended by the municipal court and approved by the board of supervisors. Any appointee shall be compensated at the first step and advance to each higher step upon completion of each year of service. Upon the recommendation of the municipal court and approval of the board of supervisors, such employees may be employed at or may be granted a special step increase to any step within the salary range on the basis of experience or qualifications.

(b) Any change in the salaries in effect immediately prior to January 1, 1984, shall be on an interim basis and shall expire on January 1 of the second calendar year after the calendar year in which the change occurs, unless ratified by the Legislature.

SEC. 19. Section 73777 is added to the Government Code, to read:

73777. The judges may appoint one part-time traffic referee, who shall serve at the pleasure of the judges. The part-time traffic referee shall satisfy the minimum eligibility standards provided in Section 72400.

SEC. 20. Section 73793 of the Government Code is amended to read:

73793. There shall be one administrative officer of the court known as the municipal court clerk-administrator, who shall be appointed by a majority of the judges of the court. The court clerk-administrator shall receive a biweekly salary on range 58.5.

SEC. 21. Section 73796 of the Government Code is amended to read:

73796. There shall be one marshal of the Merced County Municipal Court. The marshal shall receive a salary on range 58.5.

When a vacancy occurs in the office, a majority of the superior and municipal court judges shall appoint the marshal and the marshal shall serve at their pleasure.

SEC. 22. Section 73797 of the Government Code is amended to read:

73797. (a) The marshal may appoint:

(1) One assistant marshal on range 54.5.

(2) One marshal's sergeant on range 53.5.
(3) Twelve deputy marshals II on range 49.5.
(4) Four civil assistants on range 39.5.

(b) The initial appointments to the positions of assistant marshal and deputy marshal shall be made from persons who have served as constables in a justice court in Merced County during the year of 1976. Such appointees shall become deputy marshals and receive the salary provided at the fifth step of the range designated for deputy marshal. The assistant marshal initially appointed shall receive the salary provided at the fifth step of the range designated for assistant marshal.

SEC. 23. Section 73798 of the Government Code is amended to read:

73798. The clerk-administrator may appoint:
(a) One supervising municipal court clerk II on range 49.5.
(b) Four supervising municipal court clerks I on range 46.
(c) Nine deputy court clerks II on range 42.
(d) Fourteen deputy court clerks I on range 40.
(e) One supervising account clerk I on range 44.5.
(f) Three account clerks I on range 40.
(g) Eight typist-clerks II on range 38.5.
(h) One pretrial release clerk on range 47.
(i) One typist-clerk III on range 41.5.

SEC. 24. Section 74001.5 of the Government Code is amended to read:

74001.5. The judges of the Central Orange County Judicial District may appoint one court commissioner. The judges of the Orange County Harbor Judicial District may appoint two court commissioners. The judges of the North Orange County Judicial District may appoint one court commissioner. The judges of the South Orange County Judicial District may appoint one court commissioner. The judges of the West Orange County Judicial District may appoint two court commissioners.

The commissioners shall have the additional powers and duties prescribed by Section 259 of the Code of Civil Procedure. The commissioners shall possess the same qualifications as the law requires of a judge of the municipal court. The commissioners shall hold office at the pleasure of the judges and shall receive a monthly salary in the same sum as is paid a commissioner of the Orange County Superior Court. The commissioners shall be ex officio deputy clerks of the court and shall be members of any retirement system which includes the attachés of the court. The commissioners shall not engage in the private practice of law.

SEC. 24.1. Section 74004 of the Government Code is amended to read:

74004. (a) The number of positions within each job classification which may be filled by appointment by the clerk and administrative officer/executive officer, respectively, of each such court, and the number of the salary range set forth in Section 74005 which consti-

tutes the compensation for each job classification, are shown in the table below, in which the various municipal courts are designated by column headings from left to right in the same order as that in which their judicial districts are named in Section 74000:

Title of job classification	Applicable salary range number	Number of positions authorized in each court NOC	COC	WOC	OCH	SOC
Division head II, municipal court	D54	5	5	5	5	0
Division head I, municipal court	D52	0	0	0	0	3
Courtroom clerk, municipal court	D49	15	16	12	10	6
Deputy clerk IV, municipal court	D41	1	2	1	0	1
Deputy clerk III, municipal court	D39	7	7	8	6	5
Deputy clerk II, municipal court	D34 S/3	19	18	20	23	17
Deputy clerk I, municipal court	D32 S/5	46	49	44	26	18
Judicial secretary I, municipal court	D39 S/2	1	1	1	1	0
Judicial secretary II, municipal court	D43	1	1	1	1	1
Secretary III, municipal court	D43	1	1	1	1	1
Systems analyst IV, municipal court	A64	1	1	1	1	0
Supervising detention release officer	A60	0	1	0	0	0
Detention release officer	A54	0	10	0	0	0
Information processing specialist II	D36	16	13	15	12	0
Interpreter, municipal court	A39	3	2	3	1	0
Supervising deputy clerk I, municipal court	D45	2	2	2	1	1
Supervising deputy clerk II, municipal court	D42	3	3	3	2	0
Assistant courtroom clerk, municipal court	D37	3	4	6	3	0
Judicial support officer	A50	0	1	1	1	0

(b) The Legislature finds and declares that the matter of appointing, promoting, demoting, and dismissing persons in positions with the municipal courts and all other aspects of the personnel management of municipal courts of Orange County is one for local concern. It further finds and declares that wherever possible such personnel management may grant to persons in positions with the municipal courts similar treatment with persons in positions with the County of Orange who are performing similar duties and who possess similar qualifications.

(c) To achieve the legislative intent expressed in subdivisions (a) and (b), the municipal courts of Orange County may create a person-

nel committee consisting of five judges selected one from each court by a majority vote of the judges of the respective courts, or where there is an equal division of the judges of a court, by the senior judge of that court. The personnel committee may adopt rules and regulations providing for a personnel system for all municipal courts of Orange County which may provide for similar treatment for employees and attachés of the several courts and the marshal's office as is provided for Orange County employees generally. In so providing for a personnel system, the judges may adopt all or any part of the personnel and salary resolution or appropriate memoranda of understanding of the County of Orange.

(d) With the approval of the board of supervisors, the personnel system adopted by the personnel committee and made applicable to all the municipal courts of Orange County may be administered by the County of Orange through its personnel department. The board of supervisors may withdraw its approval at any time.

(e) If an increase in the business of the court or any other emergency requires a greater number of attachés or employees for the prompt and faithful discharge of the business of the court than the number expressly provided in this article or requires the performance of duties of positions in a class not expressly provided in this article, a majority of the judges of any of the courts, with the approval of the board of supervisors, may establish additional titles, pay rates, and positions as they deem necessary for the performance of the duties and exercise of the powers conferred by law upon the courts. Rates of compensation of such other officers, attachés, and employees may be set by joint action and approval of the board of supervisors and a majority of the municipal court judges of Orange County. The establishment of additional titles, positions, and pay rates and changes in compensation made pursuant to this subdivision shall be on an interim basis and shall expire on January 1 of the second year following the year in which such establishment or change is made. The provisions of this section are directory only and are not intended to affect the application of Section 72150.

SEC. 24.2. Section 74023 of the Government Code is amended to read:

74023. The municipal court administrator shall appoint, in accordance with Placer County civil service rules, all of the following:

(a) Two supervising municipal court clerks for the court, who shall perform such duties as may be required by the court or the judges.

(b) Three deputy clerks, who shall be municipal court clerks III.

(c) Sixteen full-time and two half-time deputy clerks, who shall be municipal court clerks I or II.

(d) One deputy clerk, who shall be a master calendar clerk.

SEC. 24.3. Section 74024 of the Government Code is amended to read:

74024. The Placer County sheriff shall be ex officio marshal.

SEC. 24.4. Section 74025 of the Government Code is amended to

read:

74025. The designated deputies of the sheriff of Placer County shall act as ex officio deputy marshals of the Placer County Municipal Court.

SEC. 24.5. Section 74027 of the Government Code is repealed.

SEC. 24.6. Section 74028 of the Government Code is repealed.

SEC. 24.7. Section 74029 of the Government Code is repealed.

SEC. 24.8. Section 74030 of the Government Code is amended to read:

74030. (a) The positions enumerated in Sections 74022 to 74026, inclusive, shall receive a biweekly salary at Step A of the range set forth below, as provided in Chapter 14 of the Placer County Code.

Step increases may be awarded at 5 percent at the end of the first six months and thereafter 5 percent annually for the next 48 months to a maximum of 20 percent over the amount specified as Step A:

Position	Salary Range
Municipal Court Administrator	45.5
Supervising Municipal Court Clerk	34.0
Municipal Court Clerk III	33.0
Deputy Clerk, Municipal Court Clerk I	29.0
Deputy Clerk, Municipal Court Clerk II	31.0
Deputy Clerk, Master Calendar Clerk	34.0

(b) If the board of supervisors adopts a revised salary schedule for county employees, the new schedule shall apply equally to employees of municipal courts and conversion of the new schedule shall be made for such employees in the same manner on the same date as for such other county employees. Also, employees and officers of the municipal court shall be entitled to all employee benefits as they are now provided and made applicable to positions within county service. All matters affecting the administration of salary and benefits, the selection, appointment, and reclassification of such municipal court officers and employees in those positions which they hold which are not specifically determined by the provisions of state law shall be governed by the personnel provisions of the Placer County Code. Any changes in compensation made pursuant to this subdivision shall be on an interim basis and shall expire January 1, of the second calendar year following such changes unless ratified by the Legislature.

SEC. 25. Section 74134 of the Government Code is repealed.

SEC. 26. Section 74134 is added to the Government Code, to read:

74134. In the Riverside Judicial District, the salary of the clerk/administrator-Riverside Judicial District shall be on range 301 and the clerk/administrator may appoint:

(a) One assistant clerk/administrator-Riverside Judicial District on range 247.

(b) One supervising own recognizance officer on range 230.

(c) One municipal court branch manager on range 218.
(d) Four own recognizance officers on range 209.
(e) Three municipal court division supervisors on range 202.
(f) Seven municipal courtroom clerks on range 191.
(g) One accounting technician on range 188.
(h) Three senior municipal court clerks on range 163.
(i) One senior stenographer clerk on range 163.
(j) One senior accounting clerk on range 158.
(k) Twenty-four municipal court clerks on range 142.
(*l*) One accounting clerk on range 127.

SEC. 27. Section 74135 of the Government Code is repealed.

SEC. 28. Section 74135 is added to the Government Code, to read:

74135. In the Riverside Judicial District, the salary of the marshal shall be forty-four thousand four hundred fifty-six dollars and seventeen cents ($44,456.17) per year, and the marshal may appoint:

(a) One assistant marshal on range 302.
(b) One marshal's lieutenant on range 285.
(c) One marshal's sergeant on range 265.
(d) Four deputy marshals II on range 234.
(e) Ten deputy marshals I on range 203.
(f) One correctional officer II on range 191.
(g) One secretary I on range 169.
(h) One senior accounting clerk on range 158.
(i) Four investigative assistants on range 150.
(j) Two data terminal operators II on range 127.
(k) Three typist clerks II on range 117.
(*l*) Fifty special deputy marshals as are needed, who shall be custodians at the fee allowed by law for keeping property taken under legal process and shall be paid out of the funds deposited by the litigants in the action in which such services are rendered. Deputies serving under the provisions of this subdivision are not considered employees of the judicial district for purposes of obtaining any benefits of this article.

SEC. 29. Section 74135.1 of the Government Code is amended to read:

74135.1. By majority vote, the judges may appoint two court commissioners who shall meet the qualifications and have the powers and duties specified in Sections 72190 and 72190.1 of this code, and Sections 259 and 259a of the Code of Civil Procedure. Any commissioner so appointed shall also have the power and duties of a traffic referee, as provided in Article 9 (commencing with Section 72400) of Chapter 8 of Title 8. The salary of a commissioner for all duties performed pursuant to this section shall be equal to 75, 80, or 85 percent of the salary of a judge of the municipal court, as determined by the court.

SEC. 30. Section 74136 of the Government Code is repealed.

SEC. 31. Section 74136 is added to the Government Code, to read:

74136. In the Desert Judicial District, the salary of the clerk/administrator - Desert Judicial District shall be on range 301 and the clerk/administrator may appoint:

(a) One assistant clerk/administrator - Desert Judicial District on range 247.

(b) One senior own recognizance officer on range 224.

(c) Three municipal court branch managers on range 218.

(d) Two municipal court division supervisors on range 202.

(e) Five municipal courtroom clerks on range 191.

(f) One accounting technician on range 188.

(g) Seven senior municipal court clerks on range 163.

(h) One senior accounting clerk on range 158.

(i) Twenty municipal court clerks on range 142.

(j) One accounting clerk on range 127.

(k) One court reporter at one thousand one hundred seventy-seven dollars and forty cents ($1,177.40) biweekly.

SEC. 32. Section 74137 of the Government Code is repealed.

SEC. 33. Section 74137 is added to the Government Code, to read:

74137. In the Desert Judicial District, the salary of the marshal shall be forty-four thousand four hundred fifty-six dollars and seventeen cents ($44,456.17) per year, and the marshal may appoint:

(a) One assistant marshal on range 302.

(b) One marshal's lieutenant on range 285.

(c) One marshal's sergeant on range 265.

(d) Ten deputy marshals II on range 234.

(e) Six deputy marshals I on range 203.

(f) One senior accounting clerk on range 158.

(g) One accounting clerk on range 127.

(h) Five typist clerks II on range 117.

(i) Thirty special deputy marshals, as are needed, who shall be custodians at the fee allowed by law for keeping property taken under legal process and who shall be paid out of the funds deposited by the litigants in the action in which such services are rendered. Deputies serving under the provisions of this subdivision are not considered employees of the judicial district for purposes of obtaining any benefits of this article.

SEC. 34. Section 74138 of the Government Code is repealed.

SEC. 35. Section 74138 is added to the Government Code, to read:

74138. In the Corona Judicial District, the salary of the clerk/administrator - Corona Judicial District shall be on range 254, and the clerk/administrator may appoint:

(a) One municipal court branch manager on range 218.

(b) Two municipal court division supervisors on range 202.

(c) Two municipal courtroom clerks on range 191.

(d) One senior accounting clerk on range 158.

(e) Four municipal court clerks on range 142.

(f) One typist clerk II on range 117.

SEC. 36. Section 74139 of the Government Code is repealed.

SEC. 37. Section 74139 is added to the Government Code, to read:

74139. In the Corona Judicial District the marshal may appoint:

(a) One marshal's lieutenant A on range 290.

(b) One marshal's lieutenant on range 285.

(c) Two deputy marshals II on range 234.
(d) Two deputy marshals I on range 203.
(e) One investigative assistant on range 150.
(f) One accounting clerk on range 127.
(g) One typist clerk II on range 117.

SEC. 38. Section 74141 of the Government Code is repealed.

SEC. 39. Section 74141 is added to the Government Code, to read:

74141. In the Mt. San Jacinto Judicial District the salary of the clerk/administrator - Mt. San Jacinto Judicial District shall be on range 254, and the clerk/administrator may appoint:

(a) One traffic referee-assistant clerk on range 246.
(b) Two municipal court branch managers on range 218.
(c) One municipal court division supervisor on range 202.
(d) Four municipal courtroom clerks on range 191.
(e) Three senior municipal court clerks on range 163.
(f) One senior accounting clerk on range 158.
(g) Twelve municipal court clerks on range 142.
(h) One bail clerk on range 142.
(i) Two accounting clerks on range 127.

SEC. 40. Section 74142 of the Government Code is repealed.

SEC. 41. Section 74142 is added to the Government Code, to read:

74142. In the Mt. San Jacinto Judicial District the marshal may appoint:

(a) One marshal's lieutenant on range 285.
(b) Three deputy marshals II on range 234.
(c) Three deputy marshals I on range 203.
(d) Two investigative assistants on range 150.
(e) Two accounting clerks on range 127.
(f) One typist clerk II on range 117.

SEC. 42. Section 74143 of the Government Code is repealed.

SEC. 43. Section 74143 is added to the Government Code, to read:

74143. In the Three Lakes Judicial District the salary of the clerk/administrator - Three Lakes Judicial District shall be on range 254, and the clerk/administrator may appoint:

(a) One municipal court branch manager on range 218.
(b) Two municipal court division supervisors on range 202.
(c) One municipal courtroom clerk on range 191.
(d) One senior municipal court clerk on range 163.
(e) One senior accounting clerk on range 158.
(f) Seven municipal court clerks on range 142.

SEC. 44. Section 74144 of the Government Code is repealed.

SEC. 45. Section 74144 is added to the Government Code, to read:

74144. In the Three Lakes Judicial District, the marshal may appoint:

(a) One marshal's lieutenant on range 285.
(b) Two deputy marshals II on range 234.
(c) Two deputy marshals I on range 203.
(d) One investigative assistant on range 150.
(e) One accounting clerk on range 127.

(f) One typist clerk II on range 117.

SEC. 46. Section 74191.7 of the Government Code is amended to read:

74191.7. The judges of the Sacramento Municipal Court District shall appoint three and one-half commissioners as the business of the court requires. The commissioners shall possess the same qualifications as the law requires of a judge of the court. Such appointment shall be pursuant to Section 72190 and the commissioners shall receive a salary which equals 85 percent of the annual salary for a municipal court judge.

SEC. 47. Section 74192 of the Government Code is amended to read:

74192. (a) There shall be one administrator who shall be appointed by the judges of the court and who shall be clerk of the court. The administrator shall receive a biweekly salary at a rate specified in range 2000. The position of administrator shall not be deemed a civil service position. The administrator shall be the appointing authority for the positions set forth in this section. Each person appointed shall serve at the pleasure of the administrator.

(b) There shall be one director of judicial services. The director of judicial services for the court shall receive a biweekly salary at a rate specified in range 1487. The position of director of judicial services for the court shall not be deemed a civil service position.

(c) There shall be one director of administrative services. The director of administrative services for the court shall receive a biweekly salary at a rate specified in range 1679. The position of director of administrative services shall not be deemed a civil service position.

(d) There shall be three legal secretary II positions. The legal secretary II for the court shall receive a biweekly salary at a rate specified in range 822. The position of legal secretary II shall not be deemed a civil service position until the incumbent vacates the position. After the position is vacant it shall be deemed a civil service position.

(e) There shall be one senior court process clerk. The senior court process clerk for the court shall receive a biweekly salary at a rate specified in range 757. The position of senior court process clerk for the court shall not be deemed a civil service position until the incumbent vacates the position. After the position is vacant it shall be deemed a civil service position.

(f) There shall be four court process managers. Each court process manager for the court shall receive a salary at a rate specified in range 1225. The positions of court process manager for the court shall not be deemed civil service positions.

(g) There shall be one system manager coordinator. The system manager coordinator shall receive a biweekly salary at a rate specified in range 1363. The position of system manager coordinator shall not be deemed a civil service position.

(h) There shall be two court interpreters. The court interpreters

shall receive a biweekly salary at a rate specified in range 887. The position of court interpreter shall not be deemed a civil service position.

(i) There shall be one director of operations. The director of operations shall receive a biweekly salary at a rate specified in range 1487. The position of director of operations shall not be deemed a civil service position.

(j) There shall be 13 associate court process clerks. The associate court process clerks shall receive a biweekly salary at a rate specified in range 665 for level II and in range 611 for level I. The position of the associate court process clerk shall not be deemed a civil service position until the incumbent vacates the position. After the position is vacant it shall be deemed a civil service position.

(k) There shall be 11 court process supervisors. The court process supervisors shall receive a biweekly salary at a rate specified in range 937. The position of the court process supervisor for the court shall not be deemed a civil service position.

(*l*) There shall be one half-time associate court process clerk. The half-time associate court process clerk for the court shall receive a biweekly salary at a rate specified in range 665 for level II and in range 611 for level I. The position of the half-time associate court process clerk shall not be deemed a civil service position until the incumbent vacates the position. After the position is vacant, it shall be deemed a civil service position.

(m) There shall be one attorney II. The attorney II for the court shall receive a biweekly salary at a rate specified in range 1522. The position of the attorney shall not be deemed a civil service position.

(n) There shall be one administrative assistant I. The administrative assistant I for the court shall receive a biweekly salary at a rate specified in range 1113. The position of administrative assistant shall not be deemed a civil service position.

(o) There shall be one associate administrative analyst. The associate administrative analyst shall receive a biweekly salary at a rate specified in range 1344. The position of associate administrative analyst shall not be deemed a civil service position.

(p) There shall be one accountant III. The accountant III shall receive a biweekly salary at a rate specified in range 1287. The position of accountant III shall not be deemed a civil service position.

(q) There shall be one court process supervisor, confidential. The court process supervisor, confidential, shall receive a biweekly salary at a rate specified in range 986. The position of court process supervisor, confidential, shall not be deemed a civil service position.

(r) There shall be one account clerk II. The account clerk II shall receive a biweekly salary at a rate specified in range 725. The position of account clerk II shall not be deemed a civil service position until the incumbent vacates the position. After the position is vacant it shall be deemed a civil service position.

SEC. 48. Section 74193 of the Government Code is amended to read:

74193. The administrator shall appoint:

(a) Seventy-three deputy clerks, who shall be associate court process clerks, each of whom shall receive a biweekly salary at a rate specified in range 665 for level II and in range 611 for level I.

(b) Seven deputy clerks, who shall be senior court process clerks, each of whom shall receive a biweekly salary at a rate specified in range 757.

(c) Twenty-two deputy clerks, who shall be court clerks, each of whom shall receive a biweekly salary at a rate specified in range 1040 for level II and in range 927 for level I.

(d) Three deputy clerks who shall be court process specialists, each of whom shall receive a biweekly salary at a rate specified in range 851.

(e) One deputy clerk, who shall be a data processing technician II, who shall receive a biweekly salary at a rate specified in range 883.

(f) Four deputy clerks, who shall be account clerks II, each of whom shall receive a biweekly salary at a rate specified in range 725.

(g) One deputy clerk, who shall be a data entry supervisor, who shall receive a biweekly salary at a rate specified in range 870.

(h) One deputy clerk, who shall be an account clerk III, who shall receive a biweekly salary at a rate specified in range 822.

SEC. 51. Section 74196.5 is added to the Government Code, to read:

74196.5. (a) The provisions of this section shall prevail over any conflicting provision of this code applicable to employees working for the Sacramento Municipal Court District who occupy positions which, pursuant to this article, are deemed not to be a part of county civil service. The purpose of this section is to provide a procedure pursuant to which employees who occupy these positions may have their positions automatically converted to positions which are deemed to be a part of county civil service, and to provide for the automatic blanketing into county civil service, with permanent civil service status, of any employee who exercises an option to do so as provided in this section. As used in this section, "employee" means an employee who occupies a position which, pursuant to other provisions of this article, is expressly deemed not to be a part of county civil service.

(b) Upon the recommendation of the judges of the court, the board of supervisors may adopt a resolution designating each employee who is authorized to exercise an option to be blanketed into county civil service as provided in this section. The resolution shall specify a final filing date by which those employees who desire to exercise such option shall file a written, irrevocable statement to that effect with the clerk and administrator of the court. Commencing on the first day following such final filing date, the position occupied by any employee who files such a statement shall be deemed to be a part of county civil service and the employee shall be deemed blanketed into county civil service with permanent status in the applicable county civil service classification. If the resolution, as recommended

by the court, is changed prior to adoption by the board of supervisors, the resolution shall not be effective unless the changes are concurred in by the court.

(c) Upon the recommendation of the judges of the court, the board of supervisors may include in such resolution any other terms and conditions upon which such employees are to be employed, to the same extent as the board of supervisors is authorized to make these provisions applicable when blanketing employees into county civil service pursuant to Section 15-A of the Sacramento County Charter; provided, that the compensation or benefits of any employee shall not be increased or decreased as a result of, or in connection with, blanketing into county civil service pursuant to this section. As a result of the exercise of the option to be blanketed into civil service, there shall be no change in an employee's rights or benefits except for the change from noncivil service to civil service status.

(d) The personnel records of the court and the county relating to any employee who files a statement authorized by a resolution adopted pursuant to this section shall be amended to show the blanketing into county civil service of the employee and the position occupied by the employee in accordance with the final filing date specified in the resolution.

(e) The final filing date for the filing of a statement pursuant to this section shall be not sooner than 30 days and not later than the 90th day following the effective date of this section.

SEC. 52. Section 74201 of the Government Code is amended to read:

74201. There shall be one pretrial release program manager. The appointing authority for the position shall be the judges of the Sacramento Municipal Court. The position shall not be deemed to be a civil service position and the incumbent shall serve at the pleasure of the judges of the Sacramento Municipal Court. The salary range for the position shall be 1457.

SEC. 53. Section 74502 of the Government Code is amended to read:

74502. (a) There shall be one clerk-executive officer who shall also serve as secretary to the judges and who shall be paid a salary of four thousand two hundred eighty-eight dollars ($4,288) monthly during the first year of service, a salary of four thousand five hundred two dollars ($4,502) monthly after the first year of permanent certification, commencing on the first day of the month following the first anniversary of his or her appointment, a salary of four thousand seven hundred twenty-two dollars ($4,722) monthly after the second year of permanent certification commencing on the first day of the month following the second anniversary of his or her appointment, and a maximum salary of five thousand one hundred nineteen dollars ($5,119) monthly after the third year of permanent certification commencing on the first day of the month following the third anniversary of his or her appointment. Whenever any vacancy occurs, the

judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint one clerk-executive officer who shall hold office at their pleasure and who shall receive the salary specified in this section.

(b) Notwithstanding the provisions of Section 72400, there shall be three traffic referees who shall have the powers and duties specified in Sections 72401, 72402, and 72403 and shall be paid a salary equal to 50 percent of the salary of a judge of the municipal court during the first year of service; subject to approval of the judges, or a majority of them, a salary equal to 65 percent of the salary of a judge of the municipal court after the first year of service, commencing on the first day of the month following the first anniversary of his or her appointment; and subject to the approval of the judges, or a majority of them, a maximum salary equal to 75 percent of the salary of a judge of the municipal court after the second year of service, commencing on the first day of the month following the second anniversary of his or her appointment. Whenever any vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint a traffic referee who shall hold office at the pleasure of the judges and who shall receive the salary specified in this section.

(c) There shall be one executive assistant to the presiding judge who shall be paid a salary of three thousand two hundred sixty dollars ($3,260) monthly during the first year of service, a salary of three thousand three hundred seventy-five dollars ($3,375) monthly after the first year of permanent certification, commencing on the first day of the month following the first anniversary of his or her appointment, and a maximum salary of three thousand five hundred thirty-seven dollars ($3,537) monthly after the second year of permanent certification, commencing on the first day of the month following the second year of his or her appointment. Whenever a vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint one executive assistant to the presiding judge, who shall hold office at their pleasure and who shall receive the salary specified in this section. When the executive assistant to the presiding judge is a member of the state bar, the executive assistant may perform duties for the court in the field of law at the direction of the presiding judge with the concurrence of the administrative committee and be paid in addition to the salary provided by this article, the additional sum of four hundred dollars ($400) monthly.

(d) There shall be one executive secretary to the presiding judge who shall serve as confidential executive secretary to the presiding judge who shall be paid the salary of two thousand fifty-one dollars ($2,051) monthly during the first year of service, a salary of two thousand one hundred fifty-three dollars ($2,153) monthly after the first year of permanent certification, commencing on the first day of the month following the first anniversary of his or her appointment, and a maximum salary of two thousand two hundred sixty-eight dollars ($2,268) monthly after the second year of permanent certifi-

cation, commencing on the first day of the month following the second year of his or her appointment. Whenever a vacancy occurs, the judges, or a majority of them, shall appoint one executive secretary to the presiding judge who shall hold office at their pleasure and who shall receive the salary as specified in this section.

(e) There shall be one small claims legal advisor who shall be paid a salary of three thousand sixty-one dollars ($3,061) monthly during the first year of service, a salary of three thousand one hundred seventy-nine dollars ($3,179) monthly after the first year of permanent certification, commencing on the first day of the month following the first anniversary of his or her appointment, a salary of three thousand three hundred sixty-seven dollars ($3,367) monthly after the second year of permanent certification, commencing on the first day of the month following the second anniversary of his or her appointment, a salary of three thousand five hundred thirty-one dollars ($3,531) monthly after the third year of permanent certification, commencing on the first day of the month following the third anniversary of his of her appointment, and a maximum salary of three thousand seven hundred two dollars ($3,702) monthly after the fourth year of permanent certification, commencing on the first day of the month following the fourth anniversary of his or her appointment. Whenever a vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint one small claims legal advisor, who shall hold office at their pleasure, who shall perform such duties as are assigned by the clerk of the court, and who shall receive the salary specified in this section, except that the appointing authority, in its discretion, may appoint two half-time small claims legal advisors who shall each receive a salary equal to one-half that specified in this section.

(f) There shall be one criminal courts calendar coordinator who shall be paid a minimum salary of three thousand seventy-one dollars ($3,071) monthly during the first year of service, a salary of three thousand two hundred thirteen dollars ($3,213) monthly after the first year of permanent certification commencing on the first day of the month following the first anniversary of his or her appointment, and a maximum salary of three thousand three hundred sixty dollars ($3,360) monthly after the second year of permanent certification commencing on the first day of the month following the second anniversary of his or her appointment. Whenever any vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint one deputy clerk, who shall be the criminal courts calendar coordinator, who shall hold such position at their pleasure, who shall perform such duties as are assigned by the judges of the court, and who shall receive the salary specified in this section.

SEC. 54. Section 74503 of the Government Code is amended to read:

74503. (a) There shall be two chief deputies, one with responsibility overall of the civil and small claims divisions, one with responsi-

bility over all of the criminal and traffic divisions, each of whom shall also serve as jury commissioner and who shall exercise the powers of jury commissioner of superior courts insofar as they are applicable to the municipal court and who shall be paid a minimum salary of three thousand nine hundred three dollars ($3,903) monthly during the first year of service, a salary of four thousand sixty-six dollars ($4,066) monthly after the first year of permanent certification, commencing on the first day of the month following the anniversary of his or her appointment, and a maximum salary of four thousand two hundred forty-two dollars ($4,242) monthly after the second year of permanent certification commencing on the first day of the month following the second anniversary of his or her appointment. Whenever any vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint a chief deputy who shall hold office at their pleasure, and who shall perform such duties as are assigned by the clerk of the court, and who shall receive the salary specified in this section.

(b) There shall be one court training coordinator who shall be paid a minimum salary of three thousand seventy-one dollars ($3,071) monthly during the first year of service, a salary of three thousand two hundred thirteen dollars ($3,213) monthly after the first year of permanent certification commencing on the first day of the month following the anniversary of his or her appointment, and a maximum salary of three thousand three hundred sixty dollars ($3,360) monthly after the second year of permanent certification commencing on the first day of the month following the second anniversary of his or her appointment. Whenever any vacancy occurs, the clerk shall appoint, or a majority of the judges may appoint, notwithstanding any other provisions of this code, a deputy clerk, who shall be court training coordinator, who shall hold such position at the pleasure of the appointing authority, who shall perform such duties as are assigned by the clerk of the court, and who shall receive the salary specified in this section.

(c) There shall be one court systems coordinator who shall be paid a minimum salary of three thousand seventy-one dollars ($3,071) monthly during the first year of service, a salary of three thousand two hundred thirteen dollars ($3,213) monthly after the first year of permanent certification commencing on the first day of the month following the anniversary of his or her appointment, and a maximum salary of three thousand three hundred sixty dollars ($3,360) monthly after the second year of permanent certification commencing on the first day of the month following the second anniversary of his or her appointment. Whenever any vacancy occurs, the clerk shall appoint or a majority of the judges may appoint, notwithstanding any other provisions of this code, a deputy clerk who shall be court systems coordinator, who shall hold such position at the pleasure of the appointing authority, who shall perform such duties as are assigned by the clerk of the court, and who shall receive the salary specified in this section.

(d) There shall be one assistant court systems coordinator who shall be paid a minimum salary of two thousand six hundred seventy-six dollars ($2,676) monthly during the first year of service, a salary of two thousand eight hundred one dollars ($2,801) monthly after the first year of permanent certification, commencing on the first day of the month following the first anniversary of his or her appointment, and a maximum salary of two thousand nine hundred forty-five dollars ($2,945) monthly after the second year of permanent certification commencing on the first day of the month following the second anniversary of his or her appointment. Whenever any vacancy occurs, the clerk shall appoint or a majority of the judges may appoint, notwithstanding any other provisions of this code, a deputy clerk who shall be assistant court systems coordinator, who shall hold such position at the pleasure of the appointing authority, who shall perform such duties as are assigned by the clerk of the court, and who shall receive the salary specified in this section.

(e) There shall be one court fiscal officer who shall be paid a minimum salary of three thousand two hundred sixty-six dollars ($3,266) monthly during the first year of service, a salary of three thousand four hundred fifteen dollars ($3,415) monthly during the second year of permanent certification commencing on the first day of the month following the first anniversary of his or her appointment, and a salary of three thousand five hundred seventy dollars ($3,570) monthly after the second year of permanent certification commencing on the first day of the month following the second anniversary of his or her appointment. Whenever any vacancy occurs, the clerk shall appoint or a majority of the judges may appoint, notwithstanding any other provisions of this code, a court fiscal officer who shall hold such position at the pleasure of the appointing authority, who shall perform such duties as are assigned by the clerk of the court, and who shall receive the salary specified in this section.

(f) There shall be one court program analyst manager who shall be paid a salary of three thousand two hundred seventy-four dollars ($3,274) monthly during the first year of service, a salary of three thousand four hundred forty-three dollars ($3,443) monthly after the first year of permanent certification, commencing on the first day of the month following the first anniversary of his or her appointment, a salary of three thousand six hundred seventeen dollars ($3,617) monthly after the second year of permanent certification commencing on the first day of the month following the second anniversary of his or her appointment, a salary of three thousand seven hundred ninety-eight dollars ($3,798) monthly after the third year of permanent certification commencing on the first day of the month following the third anniversary of his or her appointment, and a maximum salary of three thousand nine hundred eighty-seven dollars ($3,987) monthly after the fourth year of permanent certification, commencing on the first day of the month following the fourth anniversary of his or her appointment. Whenever a vacancy occurs, the clerk of the court shall appoint or a majority of the judges of the municipal court

may appoint, notwithstanding any other provisions of this code, one court program analyst manager, who shall hold such position at the pleasure of the appointing authority, who shall perform such duties as are assigned by the clerk of the court, and who shall receive the salary specified in this section, except that the appointing authority, in its discretion, may start an appointee at a first or second anniversary salary level.

(g) There shall be one assistant court program analyst manager who shall be paid a salary of two thousand four hundred ninety-seven dollars ($2,497) monthly during the first year of service, a salary of two thousand seven hundred fifty-six dollars ($2,756) monthly after the first year of permanent certification, commencing on the first day of the month following the first anniversary of his or her appointment, a salary of two thousand eight hundred ninety-three dollars ($2,893) monthly after the second year of permanent certification commencing on the first day of the month following the second anniversary of his or her appointment, a salary of three thousand thirty-eight dollars ($3,038) monthly after the third year of permanent certification commencing on the first day of the month following the third anniversary of his or her appointment, and a maximum salary of three thousand one hundred ninety-one dollars ($3,191) monthly after the fourth year of permanent certification, commencing on the first day of the month following the fourth anniversary of his or her appointment. Whenever a vacancy occurs, the clerk of the court shall appoint or a majority of the judges of the municipal court may appoint, notwithstanding any other provisions of this code, one assistant court program analyst manager, who shall hold such position at the pleasure of the appointing authority, who shall perform such duties as are assigned by the clerk of the court, and who shall receive the salary specified in this section, except that the appointing authority, in its discretion, may start an appointee at a first or second anniversary salary level.

(h) There shall be one confidential administrative legal stenographer who shall be paid a minimum salary of one thousand nine hundred thirty-two dollars ($1,932) monthly during the first year of service, a salary of one thousand nine hundred ninety-nine dollars ($1,999) monthly after the first year of permanent certification commencing on the first day of the month following the first anniversary of his or her appointment, and a maximum salary of two thousand one hundred seven dollars ($2,107) monthly after the second year of permanent certification commencing on the first day of the month following the second anniversary of his or her appointment. Whenever a vacancy occurs, the clerk of the court shall appoint, or a majority of the judges may appoint, notwithstanding any other provisions of this code, one confidential administrative legal stenographer, who shall hold such position at the pleasure of the appointing authority, who shall perform such duties as are assigned by the clerk of the court, and who shall receive the salary specified in this section.

(i) There shall be six information clerks who shall be paid a mini-

mum salary of one thousand three hundred ninety-six dollars ($1,396) monthly during the first year of service, a salary of one thousand five hundred eighty-seven dollars ($1,587) monthly after the first year of permanent certification commencing on the first day of the month following the first anniversary of his or her appointment, a salary of one thousand seven hundred eighty-three dollars ($1,783) monthly after the second year of permanent certification commencing on the first day of the month following the second anniversary of his or her appointment, and a maximum salary of one thousand eight hundred forty-two dollars ($1,842) monthly after the third year of permanent certification commencing on the first day of the month following the third anniversary of his or her appointment. Whenever any vacancy occurs, the clerk shall appoint, or a majority of the judges may appoint, notwithstanding any other provisions of this code, an information clerk, who shall perform such duties as are assigned by the clerk and who shall receive the salary specified in this section.

(j) There shall be one law and motion clerk who shall be paid a minimum salary of one thousand two hundred fifty-three dollars ($1,253) monthly during the first year of service, a salary of one thousand three hundred fifty-six dollars ($1,356) monthly after the first year of permanent certification commencing on the first day of the month following the first anniversary of his or her appointment, and a maximum salary of one thousand four hundred ninety-nine dollars ($1,499) monthly after the second year of permanent certification commencing on the first day of the month following the second anniversary of his or her appointment. Whenever any vacancy occurs, the clerk shall appoint, or a majority of the judges may appoint, notwithstanding any other provision of this code, a law and motion clerk, who shall perform such duties as are assigned by the clerk and who shall receive the salary specified in this section, except that the appointing authority, in its discretion, may appoint two half-time law and motion clerks who shall each receive a salary equal to one-half that specified in this section.

SEC. 55. Section 74504 of the Government Code is amended to read:

74504. The clerk shall also appoint:

(a) Three deputy clerks who shall be the chief division clerks in the civil, criminal, and traffic divisions of the court, who shall perform such duties as assigned by the clerk of the court, and who shall be paid a minimum salary of three thousand seventy-one dollars ($3,071) monthly during the first year of service, a salary of three thousand two hundred thirteen dollars ($3,213) monthly after the first year of permanent certification commencing on the first day of the month following the first anniversary of his or her appointment, and a maximum salary of three thousand three hundred sixty dollars ($3,360) monthly after the second year of permanent certification commencing on the first day of the month following the second anniversary of his or her appointment.

(b) Seven deputy clerks who shall be assistant chief division clerks and who shall be paid a minimum salary of two thousand six hundred seventy-six dollars ($2,676) monthly during the first year of service, a salary of two thousand eight hundred one dollars ($2,801) monthly after the first year of permanent certification commencing on the first day of the month following the first anniversary of his or her appointment and a maximum salary of two thousand nine hundred forty-five dollars ($2,945) monthly after the second year of permanent certification commencing on the first day of the month following the second anniversary of his or her appointment.

(c) Thirty-five deputy clerks who shall be paid a minimum salary of two thousand one hundred seventy-three dollars ($2,173) monthly during the first year of service, a salary of two thousand three hundred ten dollars ($2,310) monthly after the first year of permanent certification commencing on the first day of the month following the first anniversary of his or her appointment, and a maximum salary of two thousand four hundred ninety-two dollars ($2,492) monthly after the second year of permanent certification commencing on the first day of the month following the second anniversary of his or her appointment.

(d) Twenty-five deputy clerks who shall be paid a minimum salary of one thousand eight hundred eighty-three dollars ($1,883) monthly during the first year of service, a salary of one thousand nine hundred forty-eight dollars ($1,948) monthly after the first year of permanent certification commencing on the first day of the month following the first anniversary of his or her appointment and a maximum salary of two thousand eighteen dollars ($2,018) monthly after the second year of permanent certification commencing on the first day of the month following the second anniversary of his or her appointment.

(e) One deputy clerk who shall be paid a minimum salary of one thousand seven hundred sixty-two dollars ($1,762) monthly during the first year of service, a salary of one thousand eight hundred nine dollars ($1,809) monthly after the first year of permanent certification commencing on the first day of the month following the first anniversary of his or her appointment, and a maximum salary of one thousand eight hundred sixty-one dollars ($1,861) monthly after the second year of permanent certification commencing on the first day of the month following the second anniversary of his or her appointment.

(f) Thirty-seven deputy clerks who shall be paid a minimum salary of one thousand five hundred eighty-eight dollars ($1,588) monthly during the first year of service, a salary of one thousand six hundred eighty-one dollars ($1,681) monthly after the first year of permanent certification commencing on the first day of the month following the first anniversary of his or her appointment, and a maximum salary of one thousand seven hundred seventy-seven dollars ($1,777) monthly after the second year of permanent certification commencing on the first day of the month following the second

anniversary of his or her appointment.

(g) Seventy-six deputy clerks who shall be paid a minimum salary of one thousand two hundred fifty-three dollars ($1,253) monthly during the first year of service, a salary of one thousand three hundred fifty-six dollars ($1,356) monthly after the first year of permanent certification commencing on the first day of the month following the first anniversary of his or her appointment, and a maximum salary of one thousand four hundred ninety-nine dollars ($1,499) monthly after the second year of permanent certification commencing on the first day of the month following the second anniversary of his or her appointment.

(h) Eight half-time deputy clerks who shall be paid a minimum salary equal to one-half of one thousand two hundred fifty-three dollars ($1,253) monthly during the first year of service, a salary equal to one-half of one thousand three hundred fifty-six dollars ($1,356) monthly after the first year of permanent certification commencing on the first day of the month following the first anniversary of his or her appointment, and a maximum salary equal to one-half of one thousand four hundred ninety-nine dollars ($1,499) monthly after the second year of permanent certification commencing on the first day of the month following the second anniversary of his or her appointment.

(i) One class 1654 principal accountant, two class 1650 accountants, one class 1632 senior account clerk, two class 1630 account clerks, each of whom shall have the qualifications requisite to the particular civil service class of their appointment, and each of whom shall be paid the salaries designated for their respective civil service class in the annual salary ordinance of the City and County of San Francisco.

(j) One deputy clerk designated in Section 74504 and while assigned by the clerk of the court as personnel-payroll deputy shall be paid in addition to the salary provided by this article, the additional sum of one hundred dollars ($100) monthly.

(k) One deputy clerk designated in Section 74504 and while assigned by the clerk of the court as budget-purchasing deputy to the court fiscal officer shall be paid in addition to the salary provided by this article, the additional sum of fifty dollars ($50) monthly.

(*l*) Two deputy clerks designated in Section 74504 who shall serve as master calendar clerk, civil, and master calendar clerk, criminal, and while assigned to such position by the clerk of the court, shall be paid in addition to the salary provided by this article, the additional sum of one hundred dollars ($100) monthly.

(m) Five deputy clerks designated in Section 74504 and while assigned by the clerk of the court as the principal courtroom clerks serving in the arraignment courts and traffic courts, shall be paid in addition to the salary provided by this article, the additional sum of fifty dollars ($50) monthly.

(n) Two deputy clerks designated in Section 74504 who shall serve as master jury calendar clerk, civil, and master jury calendar clerk,

criminal, and while assigned to such position shall be paid in addition to the salary provided by this article, the additional sum of one hundred dollars ($100) monthly.

(o) One deputy clerk designated in Section 74504 and while assigned by the clerk of the court as supervisor of the midnight to 8:00 a.m. shift shall be paid in addition to the salary provided by this article, the additional sum of fifty dollars ($50) monthly.

(p) Deputy clerks who are required and authorized to work more than 40 hours in a week shall be entitled to overtime pay for that period in excess of the 40 hours at a rate equal to one and one-half times the amount to which they are otherwise entitled.

SEC. 56. Section 74507 of the Government Code is amended to read:

74507. Whenever a position described in Section 74504 becomes vacant, the appointing officer shall request the civil service commission to certify to the appointing officer for appointment the highest person on the list of eligibles of male or female sex as indicated in the request of the appointing authority. Lists of eligibles for such promotive positions, subsequent to those lists in existence on September 19, 1947, shall be composed only of persons holding the next lower rank or ranks of deputy clerks in such municipal courts. Monthly compensation shall determine that such deputy clerks are of the next lower rank or ranks. Temporary appointees shall receive the salary set up opposite the title of their respective positions. Temporary appointments to promotive positions shall be made from the next lower rank or ranks.

SEC. 57. Section 74604 of the Government Code is amended to read:

74604. There shall be one clerk of the court known as the court executive officer, who shall be appointed by the presiding judge with the concurrence of a majority of the judges of the court, and shall hold office at the pleasure of the majority of the judges. The monthly compensation to be paid to the court executive officer shall be Range 1881, Step 5, of the San Luis Obispo County Salary Table. In addition to any other duties imposed on such officer by law, the court executive officer shall have the following duties:

(a) To direct and coordinate the nonjudicial activities of the court.

(b) To coordinate the personnel practices in compliance with rules of the court.

(c) To prepare and administer the budget of the court.

(d) To coordinate with other county agencies the acquisition, utilization, maintenance and disposition of county facilities, equipment and supplies necessary for operation of the court.

(e) To initiate studies and prepare appropriate recommendations and reports to the presiding judge relating to the business of the court, including, but not limited to, such matters as standardization of forms, procedures, and classification and compensation of officers and employees.

(f) To collect, compare, and analyze statistical data on a continu-

ing basis concerning the status of judicial and nonjudicial business of the court and to prepare periodic reports and recommendations based on such data.

(g) To serve as liaison for the court with other persons, committees, boards, groups, and associations as directed by the presiding judge.

(h) To provide for and conduct a program of in-service training for the personnel of the municipal court.

SEC. 58. Section 74607 of the Government Code is amended to read:

74607. The presiding judge may make appointments to the following authorized positions:

Number	Classification	Salary Range
1	Assistant Clerk Administrator	1211
1	Calendar Coordinator	0853
2	Municipal Court Clerk II	0768
2	Municipal Court Clerk I	0718
1	Accounting Technician	0733
2	Account Clerk	0574
1	Accountant I	0915
	or Accountant II	1047
2	Data Entry Operator I	0592
	or Data Entry Operator II	0639
	or Data Entry Operator III	0696
13	Intermediate Typist Clerk	0546
4	Municipal Court Legal Process Clerk I	0654
6	Municipal Court Legal Process Clerk II	0718
4	Municipal Court Legal Process Clerk III	0768
4	Supervising Municipal Court Clerk	0853
1	Administrative Services Officer I	0915

SEC. 59. Section 74610 of the Government Code is amended to read:

74610. (a) The positions enumerated in Sections 74604, 74607, and 74608 are deemed to be comparable in job and salary level to certain positions in the service of San Luis Obispo County. The following table sets forth the court classifications with the comparable county classifications shown opposite thereto:

Court Classification	County Classification
Court Executive Officer	Deputy County Counsel IV (Confidential)
Calendar Coordinator	Supervising Superior Court Clerk
Municipal Court Clerk I, II	Superior Court Clerk I, II
Accounting Technician	Accounting Technician

Account Clerk	Account Clerk
Accountant I, II	Accountant I, II
Data Entry Operator I, II, III	Data Entry Operator I, II, III
Intermediate Typist Clerk	Intermediate Typist Clerk
Municipal Court Legal Process Clerk I, II, III	Legal Process Clerk I, II, III
Supervising Municipal Court Clerk	Supervising Superior Court Clerk
Administrative Services Officer I	Administrative Services Officer I

In the event that the salary for any classification which is shown above is increased by the board of supervisors, a commensurate increase shall be made in the salary for the comparable court classification. Salary adjustments made pursuant to this section shall be effective the same date as the effective date of action of the board of supervisors applicable to the respective and comparable county classifications, but shall remain effective only until January 1 of the second year following the year in which such an adjustment in salary is made.

(b) Whenever the salary of the position of supervising municipal court clerk is adjusted pursuant to subdivision (a), the salary of the position of assistant clerk administrator shall be adjusted by an equivalent percentage.

(c) Upon recommendation of the judges of the court, and with the approval of the board of supervisors, the court may appoint additional employees as it deems necessary for the performance of the duties and exercise of the powers conferred by law upon the court and its members. Any appointment made pursuant to this section shall be on an interim basis and shall expire January 1st of the second calendar year following the year in which the appointment is made unless ratified by the Legislature. This section shall not affect the application of Section 72150.

SEC. 60. Section 74642 of the Government Code is amended to read:

74642. Within the South Coast Judicial District there shall be the following officers, attachés, and employees:

South Coast Municipal Court	Salary Range
1 Account Clerk II	298
1 Assistant Clerk-Admin Officer-SB	437
1 Accounting Technician I	346
1 Administrative Secretary	340
1 Clerk-Admin Officer-SB	491
10 Court Clerk I	293
12 Court Clerk II	320
10 Court Clerk III	347
3 Court Clerk, Senior	357

1	Calendar Coordinator, Muni Court	383
1	Clerk II	288
2	Data Entry Operator II	298
1	Data Entry Operator III	312
3	Official Court Reporter Muni Court	1,297.93
2	Own Recognizance Officer	404
1	Own Recognizance Supervisor	424
1	Traffic Referee	2,012

Marshal-South Coast Municipal Court		Salary Range
1	Assistant Marshal-SB	457
3	Court Clerk I	293
1	Court Clerk II	320
1	Clerk Principal	355
7	Deputy Marshal	397
1	Marshal-SB	485
1	Marshal's Sergeant	432

SEC. 61. Section 74643 of the Government Code is amended to read:

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

Santa Maria Municipal Court		Salary Range
1	Account Clerk II	298
1	Account Clerk III	325
1	Assistant Clerk-Admin Officer-SM	403
1	Chief Deputy Clerk	364
1	Clerk-Admin Officer-SM	450
3	Court Clerk I	293
3	Court Clerk II	320
3	Court Clerk III	347
2	Data Entry Operator II	298
1	Data Entry Operator III	312
1	Official Court Reporter Muni Court	1,297.93

Marshal - Santa Maria Municipal Court		Salary Range
1	Account Clerk II	298
1	Account Clerk III	325
1	Assistant Marshal-SM	450
1	Clerk Typist II	288
4	Deputy Marshal	397
1	Marshal-SM	475
1	Marshal's Sergeant	432
1	Legal Service Specialist	340

SEC. 62. Section 74644 of the Government Code is amended to read:

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

Municipal Court - Lompoc	Salary Range
1 Asst Clerk Admin Officer-Lompoc	387
1 Clerk Admin Officer-Lompoc	428
2 Court Clerk I	293
1 Court Clerk II	320
1 Court Clerk III	347

Marshal-Lompoc Municipal Court	Salary Range
1 Admin Services Clerk	340
1 Deputy Marshal	397
1 Marshal-Lompoc	462

SEC. 63. Section 74645 of the Government Code is amended to read:

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

(b) Whenever reference to a numbered salary range is made in any section of this article, the schedule and the salary ordinance of the County of Santa Barbara in effect January 1, 1985, shall apply.

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

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

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

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

(g) Any changes in compensation made pursuant to this section shall be on an interim basis and shall expire January 1 of the second calendar year following such changes unless ratified by the Legislature.

SEC. 64. Section 74647 of the Government Code is amended to read:

74647. (a) Full-time official reporters appointed by the majority of the judges of the municipal court pursuant to the provisions of Section 72194 and so designated, shall be attachés of the court and shall receive a biweekly salary in accordance with the provisions of Section 70059.7. Such salary shall be paid at the same times and according to the same procedures as salaries of employees of the County of Santa Barbara. During the hours when the court is open for the transaction of judicial business, official reporters shall devote full time to the performance of the duties required of them by law and shall not engage in or solicit to engage in any other employment in their professional capacity.

(b) The judges of the court may appoint as many part-time additional reporters as the business of the court requires. The additional reporters shall be known as official reporters pro tempore, and they shall serve without salary but shall receive, for reporting, fees at the per diem rate fixed by Section 70059.7. Rates of compensation of regular official reporters and official reporters pro tempore may be adjusted by joint action and approval of the board of supervisors and a majority of the judges of the court, provided, however, that any changes in compensation which are made pursuant to this section shall be on an interim basis and shall remain in effect only until January 1, 1987, unless ratified by statute by the Legislature prior to that date. In criminal cases such fees upon order of the court shall be a charge against the general fund of the county.

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

SEC. 65. Section 74783 of the Government Code is amended to read:

74783. There shall be one clerk-administrator who shall be appointed by and serve at the pleasure of a majority of the judges of the court. The clerk-administrator shall be on salary range 67B. The clerk may appoint, with the approval of the judges of the court, all of the following:

(a) One assistant clerk-administrator on range 59C.

(b) Ten courtroom clerks on range 52B.

(c) Five senior legal clerks on range 51B.

(d) One accounting technician on range 50B.
(e) Two legal clerk III's on range 49B.
(f) One account clerk III on range 48B.
(g) One department head secretary on range 50D.
(h) Seven legal clerk II's on range 47B.
(i) Twenty-six legal clerk I's on range 45B.

SEC. 66. Section 74784 of the Government Code is amended to read:

74784. There shall be one marshal who shall be appointed by and serve at the pleasure of a majority of the judges of the court, and who shall be on salary range 62C effective January 1, 1985, and, effective July 1, 1985, 63B. The marshal may appoint, with the approval of the judges of the court all of the following:

(a) One assistant marshal on range 59D effective January 1, 1985, and, effective July 1, 1985, 60C.
(b) Fourteen deputy marshals on range 55A effective January 1, 1985, and, effective July 1, 1985, 55D.
(c) One supervising civil process technician on range 49B.
(d) One civil process technician on range 47B.
(e) Three civil process clerks on range 45B.

SEC. 67. Section 74785 of the Government Code is amended to read:

74785. Official reporters in the municipal court appointed pursuant to Section 72194 shall be attachés of the court and, in lieu of any other compensation provided by law for their services in reporting testimony in criminal proceedings in the court, shall receive a monthly salary pursuant to salary range 61D.

SEC. 68. Section 74788 of the Government Code is amended to read:

74788. Pursuant to Section. 72194, the judges of the court may appoint as many additional reporters as the business of the court requires. The additional reporters shall be known as official reporters pro tempore, and shall serve without salary but shall receive the fees provided as follows:

(a) Commencing January 1, 1985, one hundred dollars ($100) a day or any part of a day.
(b) Commencing January 1, 1986, one hundred five dollars ($105) a day or any part of a day.
(c) Commencing January 1, 1987, one hundred fifteen dollars ($115) a day or any part of a day.

SEC. 68.5. Section 74955 of the Government Code is amended to read:

74955. There shall be one clerk who shall be appointed by, and who shall serve at the pleasure of, a majority of the judges of the municipal court. The clerk shall be paid a biweekly salary at the rate specified in salary range No. D105 in the salary schedule for management and nonclassified personnel. In addition to any other duties imposed by law, the clerk shall, at the direction of the presiding judge, perform any or all of the following duties:

(a) To direct and coordinate the nonjudicial activities of the court.

(b) To prepare and administer the budget of the court.

(c) To coordinate with other appropriate county agencies the acquisition, utilization, maintenance and disposition of county facilities, equipment and supplies necessary for the operation of the court.

(d) To collect, compare, and analyze statistical data on a continuing basis concerning the status of judicial and nonjudicial business of the court and to prepare periodic reports and recommendations based on such data.

(e) To serve as liaison for the court with other persons, committees, boards, groups, and associations as directed by the presiding judge.

SEC. 69. Section 74982 of the Government Code is amended to read:

74982. (a) If the Shasta County Board of Supervisors finds that there are sufficient funds available in the municipal court budget for the employment of a commissioner, the board by ordinance or resolution may establish the position of commissioner of the Redding Municipal Court.

(b) The commissioner shall be appointed by and serve at the pleasure of the court. The commissioner shall receive an hourly wage, set by the court from within Salary Range 50.8 of the standard salary resolution of Shasta County in effect on October 1, 1984, for each hour or fraction of an hour of service.

(c) The commissioner shall perform those duties and exercise those powers conferred by law and assigned to the commissioner by the court.

(d) Notwithstanding any other provision of law, a part-time commissioner, with approval of the court, may engage in the private practice of law before any court except the Redding Municipal Court.

SEC. 70. Section 74984 of the Government Code is amended to read:

74984. (a) There shall be one marshal who shall be appointed by the court; provided, that upon the effective date of this section, the incumbent elected marshal shall continue in office as marshal and may be removed by the court only for cause. When that marshal leaves office, the succeeding marshals shall be appointed by and serve at the pleasure of the court.

(b) The marshal shall receive the salary established for Salary Range 44, Step E, in the standard salary resolution of Shasta County in effect on October 1, 1984. The marshal shall be provided the same employment benefits by Shasta County as the county provides to other county employees in an equivalent category in the county's merit personnel system.

(c) The board of supervisors may transfer certain duties of the sheriff to the marshal pursuant to Section 26608.3.

(d) All fees collected by the marshal's office shall be deposited with the county treasurer and credited to the general fund.

SEC. 70.5. Section 74985 of the Government Code is amended to read:

74985. (a) The marshal, with the approval of the court, may appoint the following marshal's office employees whose numbers, classifications, and salary ranges in the standard salary resolution of Shasta County in effect on October 1, 1984, are:

Position Title	Number of Positions	Salary Range
Deputy Marshal I and II	5	25.5 - I 27.0 - II
Senior Account Clerk	1	27.0
Typist Clerk III	1	25.7

Regular deputy marshals shall also receive as additional compensation 75 percent of the fees each deputy collects on behalf of the marshal's office, payable by the county at the same time and in the same manner as their salaries are paid.

(b) Each employee of the marshal's office shall be provided the same employment benefits by Shasta County as the county provides to other county employees in equivalent categories and salary ranges in the county's merit personnel system.

(c) With the consent of the court, not more than five reserve deputy marshals may be hired by the marshal on an extra help basis and as the business of the court requires. Reserve deputy marshals shall receive as their sole compensation for serving or executing any judicial writ, process, or notice the fee set by statute for the same service or execution by the marshal. For attending the municipal court, reserve deputy marshals shall receive as their sole compensation the base salary of a Deputy Marshal I, calculated on an hourly basis, for each hour or fraction of an hour of service. Reserve deputy marshals shall not be entitled to any employment benefit provided by Shasta County to any other county officer or employee.

SEC. 71. Section 74986 of the Government Code is amended to read:

74986. (a) The municipal court may appoint a municipal court administrator who shall be the chief administrative officer and ex officio clerk of the court. The administrator shall serve at the pleasure of the court and shall receive a salary set by the court from within Salary Range 39.7 of the standard salary resolution of Shasta County in effect on October 1, 1984. The administrator shall be provided the same employment benefits by Shasta County as the county provides to other county employees in an equivalent category in the county's merit personnel system.

(b) The municipal court shall prescribe and regulate the duties and authority of the administrator.

SEC. 72. Section 74987 of the Government Code is amended to read:

74987. (a) The municipal court administrator, with the approval

of the court, may appoint the court's support staff personnel. The following employees of the court shall be compensated within the following applicable ranges established by the standard salary resolution of Shasta County in effect on October 1, 1984:

Position Title	Number of Positions	Salary Range
Supervising Court Clerk	1	28.5
Court Clerk III	2	26.5
Court Clerk I/II	10½	23.5-25.5

(b) Each employee designated in subdivision (a) shall be provided the same employment benefits by Shasta County as the county provides to other county employees in equivalent categories and salary ranges in the county's merit personnel system.

SEC. 73. 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 1312

An act to add Sections 1596.841 and 1596.889 to the Health and Safety Code, relating to child day care facilities.

[Approved by Governor September 30, 1985. Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 1596.841 is added to the Health and Safety Code, to read:

1596.841. Each child day care facility shall maintain a current roster of children who are provided care in the facility. The roster shall include the name, address, and daytime telephone number of the child's parent or guardian, and the name and telephone number of the child's physician. This roster shall be available to the licensing agency upon request.

SEC. 2. Section 1596.889 is added to the Health and Safety Code, to read:

1596.889. (a) Whenever the director temporarily suspends the license, registration, or special permit of a child day care facility pursuant to Section 1596.886, the director or the local licensing agency shall send written notification to the parent or guardian of each child receiving services in the facility. The department or the local licensing agency, if there is one, shall also post a written notice

of the temporary suspension at the facility in a place readily visible and accessible to the parents or guardians of children receiving services at the facility. Removal of the posted notice while the temporary suspension is in effect is a violation of this chapter punishable by a fine of five hundred dollars ($500).

(b) If a temporary suspension order is not effected within 30 days of the filing of an accusation, the director or the local licensing agency shall send written notification that the accusation has been filed to the parent or guardian of each child receiving services in the facility.

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 1313

An act relating to transportation, and making an appropriation therefor.

[Approved by Governor September 30, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. The Legislature finds and declares as follows:

(a) In the Los Angeles-San Diego transportation corridor, which traverses the state's three most populous counties, is one of the most heavily traveled transportation corridors in the country. State Highway Route 5, which is the major transportation facility serving this corridor, is already operating at design capacity on many segments of the highway.

(b) It is obvious that, if the ever-expanding transportation needs in the Los Angeles-San Diego corridor are to be met, alternate modes of transportation need to be expanded and the corridor studied and considered as a whole in achieving this end.

(c) The existing rail line in the Los Angeles-San Diego corridor has the potential to accommodate a significant portion of intercity and commuter travel within the corridor, and it is necessary and in the public interest to develop a program of upgrading the line to accommodate faster and more frequent rail service that will not disrupt essential freight service.

SEC. 2. (a) There is hereby created the Los Angeles-San Diego State Rail Corridor Study Group. The group shall be chaired by the Director of Transportation or a designee of the director.

(b) The following may each appoint a representative to the group:

(1) The Los Angeles County Transportation Commission.

(2) The Orange County Transportation Commission.

(3) The Southern California Association of Governments.

(4) The San Diego Association of Governments.

(5) The Speaker of the Assembly.

(6) The Senate Committee on Rules.

(7) The National Railroad Passenger Corporation (Amtrak).

(8) The Atchison, Topeka and Santa Fe Railway Company.

(9) The Federal Railroad Administration.

(10) The Secretary-Treasurer of the California Labor Federation. This representative to the group shall be a resident of the County of Los Angeles, Orange, or San Diego; currently employed in one of the crafts engaged in the operation of the National Railroad Passenger Corporation trains in the Los Angeles-San Diego corridor; and a representative of a group of employees so engaged.

(c) The group shall develop a program of incremental upgrading of the rail corridor and, in this connection, shall do all of the following:

(1) Identify improvements on the line that will reduce train running times, increase reliability of service, and facilitate additional frequencies for both intercity and commuter service, while maintaining capacity for current freight operations.

(A) Review existing studies of the rail transportation needs of the corridor.

(B) Survey present utilization of facilities for rail travel within the corridor.

(2) Develop criteria to determine priorities of these improvements on a cost-benefit basis, and analyze and make recommendations of the feasible alternative modes of rail transportation.

(3) Investigate the feasibility of public acquisition of all or part of the line to preserve rail passenger and transit service.

(4) Establish an implementation and funding plan.

(d) The group shall prepare and submit to the Legislature a report of its findings and recommendations to the Legislature on or before January 1, 1987.

SEC. 3. The sum of one hundred fifty thousand dollars ($150,000) is hereby appropriated from the Transportation Planning and Development Account in the State Transportation Fund to the Department of Transportation for purposes of Section 2 of this act, to be made available to match, in an equal amount, any funds or in-kind services or contributions provided for these purposes from nonstate sources.

CHAPTER 1314

An act to amend Section 11311 of, to amend, repeal, and add Sections 11325, 11326, 11327, 11329, 11330, and 11331 of, the Welfare and Institutions Code, relating to employment.

[Approved by Governor September 30, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 11311 of the Welfare and Institutions Code, as amended by Section 1 of Chapter 119 of the Statutes of 1985, 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 those 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. Sec. 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.

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. 1.5. Section 11325 of the Welfare and Institutions Code is amended to read:

11325. The Legislature recognizes that most employable persons who receive public assistance would prefer to be self-supporting if offered the opportunity to do so.

The Legislature further recognizes that the general public lacks confidence in the existing public assistance system because rather than eliminating dependency, the system often seems to encourage it by not providing sufficient incentives for work.

The Legislature further recognizes that public assistance programs should be reserved for those persons who are in need because of their inability to work productively due to circumstances beyond their control.

Therefore, it is the intent of the Legislature to pursue a more intensive approach to solving the employment problems of those persons who are in need of assistance because, although they are able to work, they lack the training or experience required by employers or they lack the ability to find and retain suitable permanent employment.

Toward the achievement of this end, the Legislature intends that the provisions of this article serve to implement an integrated

Employment Preparation Program to be administered by the State Department of Social Services. The goal of the Employment Preparation Program is to prevent and reduce welfare dependency by assisting AFDC applicants and recipients to find jobs as quickly as possible. To attain this goal, services and techniques such as any of the following may be utilized:

(a) Providing immediate job services.

(b) Imparting self-help job search skills at the earliest possible time.

(c) Assisting in direct placement and self-placement of AFDC applicants and recipients into permanent private sector and unsubsidized employment. Recipients who do not succeed in obtaining employment through the Employment Preparation Program may be eligible for participation in the California Welfare Employment Skills Training Act established pursuant to Article 3.7 (commencing with Section 11340), subject to the eligibility criteria set forth in that article and to the availability of sufficient funding.

(d) Developing effective linkages among all state and local employment and training agencies, especially those operating Job Training Partnership Act (JTPA) programs, provided for pursuant to Division 8 (commencing with Section 15000) of the Unemployment Insurance Code, to ensure that AFDC applicants and recipients have maximum work and training opportunities.

This section shall become inoperative on January 1, 1988, 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 11325 is added to the Welfare and Institutions Code, to read:

11325. The Legislature recognizes that most employable persons who receive public assistance would prefer to be self-supporting if offered the opportunity to do so.

The Legislature further recognizes that the general public lacks confidence in the existing public assistance system because rather than eliminating dependency, the system often seems to encourage it by not providing sufficient incentives for work.

The Legislature further recognizes that public assistance programs should be reserved for those persons who are in need because of their inability to work productively due to circumstances beyond their control.

Therefore, it is the intent of the Legislature to pursue a more intensive approach to solving the employment problems of those persons who are in need of assistance because, although they are able to work, they lack the training or experience required by employers or they lack the ability to find and retain suitable permanent employment.

Toward the achievement of this end, the Legislature intends that the provisions of this article serve to implement an integrated Employment Preparation Program to be administered by the

Employment Development Department with the full cooperation of the State Department of Social Services, city and county employment and training agencies, and county welfare departments. The goal of the Employment Preparation Program is to prevent and reduce welfare dependency by assisting AFDC applicants and recipients to find jobs as quickly as possible. To attain this goal, the Employment Development Department shall utilize such services and techniques as:

(a) Providing immediate job services.

(b) Imparting self-help job search skills at the earliest possible time.

(c) Assisting in direct placement and self-placement of AFDC applicants and recipients into permanent private sector and unsubsidized employment. Recipients who do not succeed in obtaining employment through the Employment Preparation Program may be eligible for participation in the California Welfare Employment Skills Training Act established pursuant to Article 3.7 (commencing with Section 11340), subject to the eligibility criteria set forth in that article and to the availability of sufficient funding.

(d) Developing effective linkages among all state and local employment and training agencies, especially those operating federal Job Training Partnership Act (29 U.S.C. Sec. 1501, et seq.) programs, to ensure that AFDC applicants and recipients have maximum work and training opportunities.

This section shall become operative on January 1, 1988.

SEC. 3. Section 11326 of the Welfare and Institutions Code is amended to read:

11326. As used in this article:

(a) "Department" means the State Department of Social Services.

(b) "Director" means the State Director of the State Department of Social Services.

(c) "Program" means the Employment Preparation Program.

(d) "Local prime sponsor" means a city or county designated as a service delivery area (SDA).

(e) "Exempt" participants means those AFDC applicants or recipients not required to register for the WIN program pursuant to Section 11310.

(f) "Nonexempt" participants means those AFDC applicants or recipients who are required to register for the WIN program pursuant to Section 11310.

(g) "Volunteers" mean those AFDC applicants or recipients who voluntarily register pursuant to subdivision (c) of Section 11310.

(h) "WIN" means the Work Incentive Program established pursuant to Article 3 (commencing with Section 11300) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, and pursuant to Division 2 (commencing with Section 5000) of the Unemployment Insurance Code.

This section shall become inoperative on January 1, 1988, 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 date on which it becomes inoperative and is repealed.

SEC. 4. Section 11326 is added to the Welfare and Institutions Code, to read:

11326. As used in this article:

(a) "Department" means the Employment Development Department.

(b) "Director" means the Director of Employment Development.

(c) "Program" means the Employment Preparation Program.

(d) "Local prime sponsor" means a city or county designated as a local prime sponsor pursuant to the Comprehensive Employment and Training Act of 1973 as amended.

(e) "Exempt" participants means those AFDC applicants or recipients not required to register with the Employment Development Department pursuant to Section 11310.

(f) "Nonexempt" participants means those AFDC applicants or recipients who are required to register with the Employment Development Department pursuant to Section 11310.

(g) "Volunteers" mean those AFDC applicants or recipients who voluntarily register pursuant to subdivision (c) of Section 11310.

(h) "WIN" means the Work Incentive Program established pursuant to Article 3 (commencing with Section 11300) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, and pursuant to Division 2 (commencing with Section 5000) of the Unemployment Insurance Code.

This section shall become operative on January 1, 1988.

SEC. 5. Section 11327 of the Welfare and Institutions Code is amended to read:

11327. (a) The department shall administer the Employment Preparation Program, which shall provide AFDC applicants and recipients with job search assistance for employment in unsubsidized jobs, and, to the maximum extent possible, links with state and local employment and training agencies, especially those operating Job Training Partnership Act (JTPA) programs, for subsidized employment and training for those persons unable to obtain unsubsidized employment within a reasonable period of time.

(b) The director shall promulgate rules and regulations to implement the program. Planning and implementation shall be commenced upon the effective date of this act, on an incremental basis. Expansion beyond this first increment shall be contingent upon demonstrated cost effectiveness. To the maximum extent possible, small counties shall be phased in concurrently with large counties.

(c) This section shall become inoperative on January 1, 1988, 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. 6. Section 11327 is added to the Welfare and Institutions

Code, to read:

11327. (a) The Employment Development Department shall administer the Employment Preparation Program, which shall provide AFDC applicants and recipients with job search assistance for employment in unsubsidized jobs, and, to the maximum extent possible, links with state and local employment and training agencies, especially those operating CETA programs, for subsidized employment and training for those persons unable to obtain unsubsidized employment within a reasonable period of time.

(b) The director shall promulgate rules and regulations to implement the program. Planning and implementation shall be commenced upon the effective date of this act, on an incremental basis. Funding and description of the first increment of this program shall be presented in the Governor's 1981–82 Budget subject to the availability of funds. Expansion beyond this first increment shall be contingent upon demonstrated cost effectiveness. To the maximum extent possible, small counties shall be phased in concurrently with large counties.

(c) This section shall become operative on January 1, 1988.

SEC. 7. Section 11329 of the Welfare and Institutions Code is amended to read:

11329. Participation requirements for this program shall be identical with the conditions in Section 11310. Any applicant for or recipient of aid under this chapter who is exempted from registration for the WIN program under Section 11310 shall be entitled to participate voluntarily in the Employment Preparation Program. Nonexempt AFDC applicants and recipients, and volunteers, shall be registered and, when appropriate, referred to the nearest appropriate Employment Development Department field office for work, job search assistance, and employment training. Failure to register shall render the nonexempt applicant or recipient subject to the full sanctions and remedies prescribed by law.

This section shall become inoperative on January 1, 1988, 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. Section 11329 is added to the Welfare and Institutions Code, to read:

11329. Participation requirements for this program shall be identical with the conditions in Section 11310. Any applicant for or recipient of aid under this chapter who is exempted from registration with the department under Section 11310 shall be entitled to participate voluntarily in the Employment Preparation Program. Nonexempt AFDC applicants and recipients, and volunteers, shall be referred to the nearest appropriate department field office to register for work, job search assistance, and employment training. Failure to register shall render the nonexempt applicant or recipient subject to the full sanctions and remedies prescribed by law.

This section shall become operative on January 1, 1988.

SEC. 9. Section 11330 of the Welfare and Institutions Code is amended to read:

11330. As resources permit, the county welfare departments shall periodically review the status of those nonexempt participants and volunteers under this chapter for whom the services described in Section 11329 could not be provided immediately upon their registration for the WIN program, to determine whether these services can now be provided.

This section shall become inoperative on January 1, 1988, 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. 10. Section 11330 is added to the Welfare and Institutions Code, to read:

11330. As resources permit, the department shall periodically review the status of those nonexempt participants and volunteers under this chapter for whom the services described in Section 11329 could not be provided immediately upon their registration with the department, to determine whether these services can now be provided.

This section shall become operative on January 1, 1988.

SEC. 11. Section 11331 of the Welfare and Institutions Code is amended to read:

11331. (a) The department shall, for the purposes of securing or providing supportive services, including child care, transportation, job search assistance, and subsidized employment and training necessary to enable employable persons to enter the job market, enter into agreements to utilize the resources of all available state and federal employment and welfare programs, including, but not limited to, the following:

(1) Title IV C of the Social Security Act (The Work Incentive Program);

(2) Title XX of the Social Security Act;

(3) The Job Training Partnership Act;

(4) Tax incentive programs for employers intended to promote the hiring of persons receiving or who are potentially eligible to receive public assistance benefits.

(b) This section shall become inoperative on January 1, 1988, 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. 12. Section 11331 is added to the Welfare and Institutions Code, to read:

11331. (a) The department shall, for the purposes of securing or providing supportive services, including child care, transportation, job search assistance, and subsidized employment and training necessary to enable employable persons to enter the job market, enter into agreements to utilize the resources of all available state and federal employment and welfare programs, including, but not

limited to, the following:

(1) Title IV C of the Social Security Act (The Work Incentive Program).

(2) Title XX of the Social Security Act.

(3) The Job Training Partnership Act, provided for pursuant to 29 U.S.C. Sec. 1501, et seq.

(4) Tax incentive programs for employers intended to promote the hiring of persons receiving or who are potentially eligible to receive public assistance benefits.

(b) This section shall become operative on January 1, 1988.

SEC. 13. (a) The State Department of Social Services shall report to the Legislature by December 1, 1986, and shall provide a second report by December 1, 1987, on the San Diego Work Experience Program, provided for pursuant to Section 11311 of the Welfare and Institutions Code, including the Employment Preparation Program and any other component added after the effective date of this act. The department shall submit a proposed methodology for the first report to the Joint Legislative Budget Committee by January 15, 1986, and for the second report by January 1, 1987. The Legislative Analyst shall provide the department with his or her comments and suggestions regarding the proposed methodology for the first report by March 15, 1986. In preparing the reports, the department shall consult with the Employment Development Department and the County of San Diego.

(b) The reports shall include, but not be limited to, all of the following:

(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.

(c) The Legislative Analyst shall provide the Legislature with his or her review of the department's first report in the Analysis of the 1987–88 Budget Bill, and of the second report in the Analysis of the 1988–89 Budget Bill.

SEC. 14. 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 1315

An act to amend Section 1624 of, to add Title 11 (commencing with Section 5200) to, and to repeal Chapter 6 (commencing with Section 5133) of Title 8 of, Part 5 of Division 4 of the Civil Code, relating to family law.

[Approved by Governor September 30, 1985. Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 1624 of the Civil Code is amended to read:

1624. The following contracts are invalid, unless they, or some note or memorandum thereof, are in writing and subscribed by the party to be charged or by the party's agent:

(a) An agreement that by its terms is not to be performed within a year from the making thereof.

(b) A special promise to answer for the debt, default, or miscarriage of another, except in the cases provided for in Section 2794.

(c) An agreement for the leasing for a longer period than one year, or for the sale of real property, or of an interest therein; such an agreement, if made by an agent of the party sought to be charged, is invalid, unless the authority of the agent is in writing, subscribed by the party sought to be charged.

(d) An agreement authorizing or employing an agent, broker, or any other person to purchase or sell real estate, or to lease real estate for a longer period than one year, or to procure, introduce, or find a purchaser or seller of real estate or a lessee or lessor of real estate where the lease is for a longer period than one year, for compensation or a commission.

(e) An agreement which by its terms is not to be performed during the lifetime of the promisor.

(f) An agreement by a purchaser of real property to pay an indebtedness secured by a mortgage or deed of trust upon the property purchased, unless assumption of the indebtedness by the purchaser is specifically provided for in the conveyance of the property.

SEC. 2. Chapter 6 (commencing with Section 5133) of Title 8 of Part 5 of Division 4 of the Civil Code is repealed.

SEC. 3. Title 11 (commencing with Section 5200) is added to Part 5 of Division 4 of the Civil Code, to read:

TITLE 11. MARITAL AGREEMENTS

CHAPTER 1. GENERAL PROVISIONS

5200. The property rights of husband and wife prescribed by statute may be altered by a premarital agreement or other marital property agreement.

5201. A minor may make a valid premarital agreement or other marital property agreement if the minor is emancipated or is otherwise capable of contracting marriage.

5202. (a) A premarital agreement or other marital property agreement that is executed and acknowledged or proved in the manner that a grant of real property is required to be executed and acknowledged or proved may be recorded in the office of the recorder of each county in which real property affected by the agreement is situated.

(b) Recording or nonrecording of a premarital agreement or other marital property agreement has the same effect as recording or nonrecording of a grant of real property.

5203. Nothing in this chapter affects the validity or effect of premarital agreements made before January 1, 1986, and the validity and effect of those agreements shall continue to be determined by the law applicable to the agreements prior to January 1, 1986.

CHAPTER 2. UNIFORM PREMARITAL AGREEMENT ACT

Article 1. Preliminary Provisions

5300. This chapter shall be known and may be cited as the Uniform Premarital Agreement Act.

5301. This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

5302. This chapter is effective on and after January 1, 1986, and applies to any premarital agreement executed on or after that date.

Article 2. Premarital Agreements

5310. As used in this chapter:

(a) "Premarital agreement" means an agreement between prospective spouses made in contemplation of marriage and to be effective upon marriage.

(b) "Property" means an interest, present or future, legal or equitable, vested or contingent, in real or personal property, including income and earnings.

5311. A premarital agreement shall be in writing and signed by both parties. It is enforceable without consideration.

5312. (a) Parties to a premarital agreement may contract with respect to all of the following:

(1) The rights and obligations of each of the parties in any of the property of either or both of them whenever and wherever acquired or located.

(2) The right to buy, sell, use, transfer, exchange, abandon, lease, consume, expend, assign, create a security interest in, mortgage, encumber, dispose of, or otherwise manage and control property.

(3) The disposition of property upon separation, marital dissolution, death, or the occurrence or nonoccurrence of any other event.

(4) The making of a will, trust, or other arrangement to carry out the provisions of the agreement.

(5) The ownership rights in and disposition of the death benefit from a life insurance policy.

(6) The choice of law governing the construction of the agreement.

(7) Any other matter, including their personal rights and obligations, not in violation of public policy or a statute imposing a criminal penalty.

(b) The right of a child to support may not be adversely affected by a premarital agreement.

5313. A premarital agreement becomes effective upon marriage.

5314. After marriage, a premarital agreement may be amended or revoked only by a written agreement, signed by the parties. The amended agreement or the revocation is enforceable without consideration.

5315. (a) A premarital agreement is not enforceable if the party against whom enforcement is sought proves either of the following:

(1) That party did not execute the agreement voluntarily.

(2) The agreement was unconscionable when it was executed and, before execution of the agreement, all of the following applied to that party:

(A) He or she was not provided a fair and reasonable disclosure of the property or financial obligations of the other party.

(B) He or she did not voluntarily and expressly waive, in writing, any right to disclosure of the property or financial obligations of the other party beyond the disclosure provided.

(C) He or she did not have, or reasonably could not have had, an adequate knowledge of the property or financial obligations of the other party.

(b) An issue of unconscionability of a premarital agreement shall be decided by the court as a matter of law.

5316. If a marriage is determined to be void, an agreement that would otherwise have been a premarital agreement is enforceable only to the extent necessary to avoid an inequitable result.

5317. Any statute of limitations applicable to an action asserting a claim for relief under a premarital agreement is tolled during the marriage of the parties to the agreement. However, equitable defenses limiting the time for enforcement, including laches and estoppel, are available to either party.

SEC. 4. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does 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.

CHAPTER 1316

An act to amend Sections 779.1 and 779.21 of, and to add Sections 779.32, 779.33, and 779.35 to, the Insurance Code, relating to insurance.

[Approved by Governor September 30, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 779.1 of the Insurance Code is amended to read:

779.1. The purpose of this article is to promote the public welfare by regulating credit life insurance and credit disability insurance. Nothing in this article is intended to prohibit or discourage reasonable competition.

SEC. 2. 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. However, except as otherwise provided in Section 779.35, the Legislature reserves to itself, on or after January 1, 1985, the adoption of any additional rules or regulations governing rates for or compensation derived from the sale of credit life and credit disability insurance or rules and regulations governing retention or reserve levels, as may be necessary to carry out the provisions of this chapter.

SEC. 3. Section 779.32 is added to the Insurance Code, to read:

779.32. (a) The term "compensation," for the purpose of this article means any valuable consideration including, but not limited to, all paid or credited commissions, contingent commissions, service fees, fees, consulting fees paid or credited within or outside this state in relation to business produced or to be produced or written or to be written in this state, electronic data process equipment or services, supplies (other than forms approved by the commissioner and the usual claims and reporting forms and envelopes for transmitting the claims and brochures, rate books, and rate charts), rental equipment of any type, advertising, telephone provided by an insurer, its agent, or any related person without charge of actual charge or at a charge less than the usual cost, profit sharing plans, experience rating refunds, experience rating credits, dividends,

expense allowances, stock plans or bonuses, and any other form of credit, including moneys assumed, or expenditures in any form whatsoever, direct or indirect, paid by or on behalf of the insurer, or by any subsidiary or parent, or subsidiary of the parent of the insurer, or by any other person to or on behalf of any group policyholder, agent, general agent, or disability broker or withheld by any group policyholder, agent, general agent, or disability broker.

(b) The maximum amount of total compensation, as defined in subdivision (a), payable by any insurer shall not exceed 35 percent of the prima facie credit life insurance rates and 30 percent of the prima facie disability insurance rates. Of the maximum total compensation allowable, the creditor shall be limited to a compensation rate of 27.5 percent of the prima facie credit life insurance rates and 23.75 percent of the prima facie credit disability insurance rates. The general agent's maximum total compensation allowable shall be limited to 7.5 percent of the prima facie credit life insurance rates and 6.25 percent of the prima facie credit disability insurance rates. A creditor may not receive both the creditor's and the general agent's compensation on its own produced insurance. A general agent may also receive additional primary compensation deducted from the maximum primary compensation allowable to the creditor.

If the commissioner has reason to believe that compensation is in fact or is contracted to be in excess of the maximum amount specified in this section, the commissioner may conduct a hearing or investigation, including the right to examine any contracts relating to the direct or indirect payment of compensation, to determine whether the insurer, general agent, or any other person is paying or whether an agent, general agent, or broker is receiving any form of compensation in excess of the applicable maximum amount of compensation specified in this section.

(c) On and after January 1, 1987, no contract of credit life or credit disability insurance shall be issued in this state unless, if applicable, the maker first ascertains, using reasonable diligence, that any nonadmitted reinsurer possesses capital and surplus of at least one million dollars ($1,000,000).

(d) Nothing in this article shall be construed to authorize the payment of any form of compensation to any creditor or to any person otherwise prohibited from receiving that form of compensation. Nor shall this article be construed to authorize the payment of experience rating refunds prior to the anniversary date of the policy. Those refunds shall be computed annually based on premiums earned to that anniversary date.

SEC. 4. Section 779.33 is added to the Insurance Code, to read:

779.33. The use of compensating balances or special deposit accounts in connection, either directly or indirectly, with a credit life insurance program or a credit disability insurance program of a credit institution, whether on a group or an individual basis, is prohibited.

Compensating balances or special deposit accounts include, but not to the exclusion of other types of balances and accounts, the following:

(1) The deposit of premiums to the account of the insurer in the financial institution for which the insurer provides the credit insurance program, when the account is either noninterest bearing or at a rate of interest less than usual or is controlled by the institution.

(2) Remitting premiums to the insurer after the expiration of the grace period on a regular basis so that the arrearage period is constant.

(3) The retention of premiums by an agent or broker to whom the financial institution remits premiums for a period of time which is not reasonably related to the time normally expected to be needed for the agent or broker to remit the premium to the insurer, if that delay is a continuing feature of the premium paying process.

(4) Any other practice which unduly delays receipt of premiums by the insurer on a regular basis, or which is followed by an insurer when the practice involves use of the financial resources of the insurer for the benefit of the credit institution.

The foregoing criteria apply regardless of whether premiums are due the insurer on the single premium in advance system or on the monthly outstanding balance system. Nothing herein shall prevent the insurer from making deposits in a financial institution which are not related to a credit insurance program if it is in fact not related to whether the insurer is the insurer which insures the credit insurance program.

SEC. 5. Section 779.35 is added to the Insurance Code, to read:

779.35. (a) The premium rates applicable with respect to the sale of credit life and credit disability insurance are those rates in effect March 5, 1985, as follows:

(1) Premium rates applicable with respect to the sale of credit life insurance are those rates and presumptive loss levels contained in Section 2248.9 of Title 10 of the California Administrative Code, except that the presumptive loss ratio level for Class C credit unions shall not be 70 percent but shall be the same as that specified for all classes except C and F.

(2) Premium rates applicable with respect to the sale of credit disability insurance are those rates and presumptive loss ratio levels referred to in Section 2248.9 of Title 10 of the California Administrative Code, except that the presumptive loss ratio level for Class C credit unions shall not be 70 percent but shall be the same as that specified for all classes except C and F. The disability rates are the credit disability insurance rate tables A through E incorporated in Section 2248.9 by express reference.

(b) The foregoing rates shall not be subject to adjustment based upon creditor size criteria in effect on March 5, 1985, and contained in subdivisions (b) and (c) of Section 2248.9, and related tables, of Title 10 of the California Administrative Code. Furthermore the

rates shall not be subject to those upward or downward rate deviation provisions in effect on March 5, 1985, and contained in Section 2248.10, and related tables, of Title 10 of the California Administrative Code. The commissioner may, however, adjust any rate specified in subdivision (a) if it is demonstrated to his or her satisfaction that the rate provides an inadequate margin for reasonable expenses, profits, or reserves.

SEC. 6. It is the intent of the Legislature that, except as authorized pursuant to subdivision (b) of Section 779.35 of the Insurance Code, the provisions of this act shall operate to prohibit the adoption of any regulations of the Department of Insurance with respect to credit life and credit disability insurance except for regulations promulgated pursuant to Section 779.27 of the Insurance Code.

CHAPTER 1317

An act to amend Sections 15820.3 and 15820.16 of the Government Code, relating to high technology.

[Approved by Governor September 30, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 15820.3 of the Government Code is amended to read:

15820.3. The board is authorized to, and may, finance the construction or renovation, and the equipping, of public buildings or facilities on a site or sites within the University of California, including buildings to be lease purchased by the United States Government, the California State University, the California Maritime Academy, and the California Community College districts, as agreed upon with the Regents of the University of California, the Trustees of the California State University, the Board of Governors of the California Maritime Academy, and the California Community College districts, respectively.

SEC. 2. Section 15820.16 of the Government Code is amended to read:

15820.16. (a) The State Public Works Board is authorized to finance the construction, renovation, and equipping of research facilities on a site or sites within the University of California including buildings or facilities to be lease purchased by the United States Government.

(b) The board shall lease-purchase to the Regents of the University of California any public building or facility constructed or renovated pursuant to this chapter. The terms and the amount of the lease-purchase shall be determined by mutual agreement of the

parties. The agreement shall provide that the public building or facility shall be utilized for research. The board shall contract with the lessee for all activities required to plan, construct, equip, and renovate these facilities.

CHAPTER 1318

An act to amend Section 656 of the Harbors and Navigation Code, relating to vessels.

[Approved by Governor September 30, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 656 of the Harbors and Navigation Code is amended to read:

656. (a) It is the duty of the operator of a vessel involved in a collision, accident, or other casualty, so far as the operator can do so without serious danger to his or her own vessel, crew, and passengers, to render to other persons affected by the collison, accident, or other casualty such assistance as may be practicable and as may be necessary in order to save them from, or minimize any, danger caused by the collision, accident, or other casualty, and also to give his or her name, address, and identification of his or her vessel in writing to any person injured and to the owner of any property damaged in the collision, accident or other casualty.

(b) Any person who complies with subdivision (a) or who gratuitously and in good faith renders assistance at the scene of a vessel collision, accident, or other casualty without objection by any person assisted, shall not be held liable for any civil damages sought as a result of the rendering of assistance or for any act or omission in providing or arranging salvage, towage, medical treatment, or other assistance, where the assisting person has acted as an ordinary, reasonably prudent person would have acted under the same or similar circumstances.

(c) (1) An individual employee of a public entity engaged in rescue pursuant to this code shall not be a proper party defendant and shall be dismissed on motion, unless the employee has violated a statute other than a statute creating a general obligation to rescue or is guilty of oppression, fraud, malice, or the conscious disregard of the safety of others.

(2) The public entity employing such an individual shall be liable in civil damages where the individual employee has failed to act as a reasonably prudent person would have acted under the same or similar circumstances.

(3) Where a public entity has given a reasonable printed, electronic, or verbal warning of the danger causing the distress

which created the necessity for the rescue, and there has been a reasonable opportunity for the party in distress to receive the warning, the public entity shall be liable only for acts or omissions of its employee which were taken in a grossly negligent manner.

(d) The owner, operator, or other person on board a vessel involved in a casualty or accident shall report the casualty or accident in accordance with regulations adopted by the department. The department shall adopt regulations to maintain a uniform casualty and accident reporting system for vessels subject to this code in conformity with federal casualty and accident reporting regulations promulgated by the United States Coast Guard or any successor thereto. Consistent with Public Law 92-75 and the federal regulations contained in Part 173 of Title 33 of the Code of Federal Regulations, a peace officer or harbor policeman, upon receiving an initial report of a casualty involving the death or disappearance of a person as a result of a boating accident, shall immediately forward the report, by quickest means available, to the department.

(e) Neither the report required by this section nor any action taken by the department with regard to the report shall be referred to in any way, or be any evidence of negligence or due care of any party, at the trial of any action at law to recover damages.

(f) All required accident reports, and supplemental reports, shall be without prejudice to the individual so reporting and shall be for the confidential use of the department and any peace officer actually engaged in the enforcement of this chapter, except that the department shall disclose the names and addresses of persons involved in, or witnesses to, an accident, the registration numbers and descriptions of vessels involved, and the date, time, and location of an accident to any person who may have a proper interest therein, including the operators involved or the legal guardian thereof, the parent of a minor operator, the authorized representative of an operator, or any person injured therein and the owners of vessels or property damaged thereby.

(g) This section applies to foreign vessels, military or public recreational-type vessels, vessels owned by a state or subdivision thereof, and ship's lifeboats otherwise exempted from this chapter pursuant to Section 650.1.

CHAPTER 1319

An act to amend Section 4002 of the Elections Code, to amend Sections 35110, 35116, 35133, 35220, and 56140 of, and to add Sections 35100.5, 35110.5, 35228.5, and 56130.5 to, the Government Code, relating to local agencies.

[Approved by Governor September 30, 1985 Filed with Secretary of State October 1, 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 of the matter 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 three, proponents and shall be in substantially the following form:

Notice of Intent to Circulate Petition

Notice is here by 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 35100.5 is added to the Government Code, to read:

35100.5. When the proposal is an inhabited annexation to a city with over 100,000 residents which is located in a county with a population of over 4,000,000, no proceedings shall be initiated either by petition or by resolution of application unless the proposal is consistent with the sphere of influence of any affected city or affected district.

SEC. 3. Section 35110 of the Government Code is amended to read:

35110. A proposal for municipal incorporation, change of organization, or municipal reorganization may be made by petition. The petition shall contain substantially the following:

(a) State that the proposal is made pursuant to this part.

(b) State the nature of the proposed municipal incorporation, change of organization, or municipal reorganization.

(c) Set forth a description of the boundaries of the affected territory accompanied by a map showing the boundaries.

(d) State the reason or reasons for the proposed incorporation, change of organization, or municipal reorganization.

(e) State whether the petition is signed by registered voters or owners of land.

(f) Designate not to exceed three persons as chief petitioners, setting forth their names and mailing addresses.

(g) State whether the proposed municipal incorporation, change of organization, or municipal reorganization is consistent with the sphere of influence of any affected city or affected district.

(h) Request that proceedings be taken for municipal

incorporation, change of organization, or municipal reorganization pursuant to this part.

SEC. 4. Section 35110.5 is added to the Government Code, to read:

35110.5. (a) Before circulating any petition for a proposal, the proponents shall publish a notice of intention which shall include a written statement not to exceed 500 words in length, setting forth the reasons for the proposal. The notice shall be published pursuant to Sections 6060 and 6061. The notice shall be signed by at least one, but not more than three, chief petitioners and shall be in substantially the following form:

Notice of Intent to Circulate Petition

Notice is hereby given of the intention to circulate a petition proposing to _____ territory to the City of _____. The reasons for the proposal are:

(b) Within five days after the date of publication, the chief petitioners shall file with the clerk of the city and the executive officer a copy of the notice together with an affidavit made by a representative of the newspaper in which the notice was published certifying to the fact of publication.

(c) After the filing required pursuant to subdivision (b), the petition may be circulated for signatures.

SEC. 5. Section 35116 of the Government Code is amended to read:

35116. (a) No petition shall be accepted for filing unless the signatures thereon shall have been secured within six months of the date on which the first signature on the petition was affixed and the petition is submitted to the executive officer for filing within 60 days after the last signature is affixed. If the elapsed time between the date on which the last signature is affixed and the date on which the petition is submitted for filing is more than 60 days, the executive officer shall file the petition in accordance with Section 35119.

(b) Notwithstanding subdivision (a), in cities with a population of more than 100,000 residents which are located in a county with a population of over 4,000,000, no petition shall be accepted for filing unless the signatures thereon shall have been secured within 90 days of the publication of the notice required pursuant to Section 35110.5 and the petition is submitted to the executive officer for filing within 60 days after the last signature is affixed. If the elapsed time between the date on which the last signature is affixed and the date on which the petition is submitted for filing is more than 60 days, the executive officer shall file the petition in accordance with Section 35119.

SEC. 6. Section 35133 of the Government Code is amended to read:

35133. (a) A petition for annexation of territory to a city shall be signed either:

(1) By not less than 5 percent of the number of registered voters

residing within the territory proposed to be annexed as shown on the county register of voters; or

(2) By not less than 5 percent of the number of owners of land within the territory proposed to be annexed who also own 5 percent of the assessed value of land within such territory as shown on the last equalized assessment roll.

(b) Notwithstanding subdivision (a), a petition for the annexation of territory to a city with more than 100,000 residents which is located in a county with a population of over 4,000,000, shall be signed either:

(1) By not less than 8 percent of the number of registered voters residing within the territory proposed to be annexed as shown on the county register of voters or

(2) By not less than 8 percent of the number of owners of land within the territory proposed to be annexed who also own 8 percent of the assessed value of land within that territory as shown on the last equalized assessment roll.

SEC. 7. Section 35220 of the Government Code is amended to read:

35220. Except as otherwise provided in Sections 35220.5, 35221, 35222, and 35223, the conducting authority shall adopt a resolution initiating proceedings for an annexation or detachment, which resolution shall comply with the commission's resolution making determinations and shall:

(a) Indicate the manner in which, and by whom, preliminary proceedings were commenced (reference to the chief petitioners, if any, shall be sufficient where preliminary proceedings were commenced by a petition).

(b) State the distinctive short form designation assigned by the commission to the territory proposed to be annexed or detached and set forth a description of the exterior boundaries of such territory.

(c) State whether the territory proposed to be annexed or detached is inhabited or uninhabited as determined by the commission in its resolution making determinations.

(d) State the reason or reasons for the proposed annexation or detachment as set forth in the proposal thereof submitted to the commission.

(e) Set forth any terms and conditions of the proposed annexation or detachment contained in the commission's resolution making determinations.

(f) Fix a time, date, and place of hearing on the proposed annexation or detachment, which shall be not less than 30 days nor more than 45 days after the date of adoption of the resolution initiating the proceedings.

(g) Notwithstanding subdivision (f), when inhabited territory is proposed to be annexed to a city with more than 100,000 residents which is located in a county with a population of over 4,000,000, the date shall be at least 90 but not more than 105 days after the date of adoption of the resolution initiating the proceedings. The resolution shall specify a date 90 days prior to the hearing when registered

voters may begin to file protests.

(h) If the territory proposed to be annexed or detached is inhabited, state that any owner of land within the territory, or any registered voter residing within the territory may file a written protest against the annexation with the clerk of the conducting authority at any time prior to conclusion of the conducting authority's hearing on the proposed annexation or detachment.

(i) If the territory proposed to be annexed or detached is uninhabited, state that any owner of land within the territory may file a written protest against the annexation or detachment with the clerk of the conducting authority at any time prior to the conclusion of the conducting authority's hearing on the proposed annexation or detachment.

SEC. 8. Section 35228.5 is added to the Government Code, to read:

35228.5. Notwithstanding Section 35228, when territory proposed to be annexed to a city with more than 100,000 residents is inhabited and is located in a county with a population of over 4,000,000, the conducting authority, not more than 30 days after conclusion of the hearing, shall adopt a resolution making a finding regarding the value of written protests filed and not withdrawn and taking one of the following actions:

(a) Terminate proceedings if written protests have been filed and not withdrawn by 50 percent or more of the registered voters within the affected territory.

(b) Order the territory annexed subject to the confirmation by the voters on the question, and call a special election and submit to the voters residing within the affected territory the question of whether it shall be annexed to the city, if written protests have been filed and not withdrawn by either 15 percent or more of the registered voters within the territory, or 15 percent or more of the number of owners of land who also won not less than 15 percent of the total assessed value of land within the territory.

(c) Order the territory annexed without an election if written protests have been filed and not withdrawn by less than 15 percent of the registered voters within the territory and less than 15 percent of the owners of land who own less than 15 percent of the total assessed value of land within the territory.

SEC. 9. Section 56130.5 is added to the Government Code, to read:

56130.5. When the proposal includes an inhabited annexation to a city with over 100,000 residents which is located in a county with a population of over 4,000,000, no preliminary proceedings shall be initiated either by petition or by application of a legislative body unless the proposal is consistent with the sphere of influence of any affected city or affected district.

SEC. 10. Section 56140 of the Government Code is amended to read:

56140. A proposal may be made by petition. The petition shall

contain substantially the following:

(a) State that the proposal is made pursuant to this division.

(b) State the nature of each proposed change of organization and the name or names of all districts and cities for which any change of organization is proposed.

(c) If any proposed change of organization is for an annexation or detachment, state whether the territory proposed to be annexed or detached is inhabited or uninhabited and set forth a description of the exterior boundaries of the territory.

(d) If the proposal is for a reorganization and requests the formation of a new district or districts, designate the principal act or acts under which the district or districts are proposed to be formed and set forth a description of the exterior boundaries of the territory proposed to be included in the district or districts.

(e) Set forth any proposed terms and conditions to which the proposed change of organization or reorganization is desired to be subject.

(f) State the reason or reasons for the proposal.

(g) State, or indicate opposite each signature, whether the signers of the petition are resident-voters, landowner-voters, or landowners.

(h) State whether the proposed change of organization or reorganization is consistent with the sphere of influence of any affected city or affected district.

(i) Request that proceedings be taken for the change of organization or reorganization proposed therein.

SEC. 11. The Legislative Analyst shall, with the cooperation of the Los Angeles Local Agency Formation Commission, prepare a report on the effects of this act and submit it to the Legislature by February 15, 1987.

SEC. 12. 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 uniquely complex relationships which exist among cities, special districts, and unincorporated communities in the state's most populous county. In light of these complex relationships, proposals to alter the boundaries of large cities require additional procedures which are not applicable to other local agencies.

SEC. 13. 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 1320

An act to amend Sections 32121 and 32130 of, and to add Section 32121.4 to, the Health and Safety Code, relating to hospital districts.

[Approved by Governor September 30, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. 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 and without 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 establish one or more trusts for the benefit of the district, to administer any trust declared or created for the benefit of the district, to designate one or more trustees for trusts created by the district, to receive by gift, devise, or bequest and hold in trust or otherwise, property, including corporate securities of all kinds, situated in this state or elsewhere, and where not otherwise provided, dispose of the same for the benefit of the district.

(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, 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 are 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 or without the district for the benefit of the district.

(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.

Nothing in this section, including subdivision (j), shall be construed to permit a local hospital district to obtain or be issued a single consolidated license to operate a separate physical plant as a skilled nursing facility or an intermediate care facility which is not located within the boundaries of the hospital district.

SEC. 2. Section 32121.4 is added to the Health and Safety Code, to read:

32121.4. Notwithstanding any other provision of law, a hospital district or any affiliated nonprofit corporation, upon a finding by the board of directors of the district that it will be in the best interests of the district to provide additional diversification of facilities, may lease and operate the realty, facilities, and business of another hospital district in California, or create a leasehold interest in its own realty, improvements, and business in favor of another hospital district, if all of the following apply:

(a) That the lease when taken together with any extensions of the lease shall not exceed a total of 10 years.

(b) That the lessor district shall not finance any capital improvements through the use of the lessor district's credit.

(c) That the lessor district shall have successfully completed any feasibility studies required by its board of directors as will reasonably ensure that the lessor hospital's financial stability will not be endangered by the lease transaction.

(d) Nothing in this section shall be construed to impair or limit the authority of the California Medical Assistance Commission to contract for the provision of inpatient hospital services under the Medi-Cal program with local hospital district hospitals as sole distinct entities, even though one or more hospital districts may have entered into leasehold or joint-venture arrangements.

SEC. 3. Section 32130 of the Health and Safety Code is amended to read:

32130. A district may borrow money and incur indebtedness in an amount not to exceed 75 percent of all estimated income and revenue for the current fiscal year, including, but not limited to, tax revenues, operating income, and any other miscellaneous income received by the district, from whatever source derived. A district may execute promissory notes or other evidences of indebtedness as may be required.

CHAPTER 1321

An act to add Section 1202.5 to the Penal Code, relating to crimes.

[Approved by Governor September 30, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 1202.5 is added to the Penal Code, to read:

1202.5. (a) In any case in which a defendant is convicted of any of the offenses enumerated in Section 211, 459, 487, or 488, the court may order the defendant to pay a fine of ten dollars ($10) in addition to any other penalty or fine imposed. If the court determines that the defendant has the ability to pay all or part of the fine, the court may set the amount to be reimbursed and order the defendant to pay that sum to the county in the manner in which the court believes reasonable and compatible with the defendant's financial ability. In making a determination of whether a defendant has the ability to pay, the court shall take into account the amount of any other fine imposed upon the defendant and any amount the defendant has been ordered to pay in restitution.

(b) All fines collected pursuant to this section shall be transferred to the local law enforcement agency in the jurisdiction where the offense took place. All moneys collected shall be used exclusively to implement, support, and continue local crime prevention programs.

(c) As used in this section, "law enforcement agency" includes, but is not limited to, police departments, sheriffs departments, and

probation departments.

CHAPTER 1322

An act to amend Section 38318.5 of the Vehicle Code, relating to off-highway vehicles.

[Approved by Governor September 30, 1985 Filed with Secretary of State October 1, 1985.]

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

SECTION 1. Section 38318.5 of the Vehicle Code is amended to read:

38318.5. (a) Any person who maliciously removes or alters trail, danger, or directional markers or signs provided for the safety or guidance of off-highway motor vehicles is guilty of a misdemeanor and shall be punished pursuant to Section 42002 by a fine of not more than one thousand dollars ($1,000) or by imprisonment in the county jail for not more than six months, or by both the fine and imprisonment.

(b) Any person who, with intent to do great bodily injury (1) proximately causes great bodily injury to any person as a result of acts prohibited by subdivision (a), or (2) erects or places any cable, chain, rope, fishing line, or other similar material which is unmarked or intentionally placed, or both, for malicious purpose is guilty of a felony.

(c) Any person convicted under subdivision (a) or (b) shall, if the violation proximately causes one or more adverse environmental impacts, also be liable in civil damages for the cost of mitigation, restoration, or repair thereof, in addition to any other liability imposed by law.

CHAPTER 1323

An act to amend Section 8152 of the Education Code, relating to apprenticeship education, and making an appropriation therefor.

[Approved by Governor September 30, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 8152 of the Education Code, as amended by Chapter 12 of the Statutes of 1985, 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 fifty-eight cents ($3.58) per hour. This section shall apply to isolated apprentices, as defined in Section 3074 of the Labor Code, for which alternative methods of instruction are provided.

(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. The sum of one hundred fifty thousand dollars ($150,000) is hereby appropriated from the General Fund to the Controller for the purposes of this act and shall be allocated as follows:

(a) One hundred thousand dollars ($100,000) to the Chancellor of the California Community Colleges.

(b) Fifty thousand dollars ($50,000) to the Superintendent of Public Instruction.

CHAPTER 1324

An act to amend Sections 5328, 8100, 8101, 8102, and 8103 of the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 30, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 5328 of the Welfare and Institutions Code is amended to read:

5328. All information and records obtained in the course of providing services under Division 4 (commencing with Section 4000), Division 4.1 (commencing with Section 4400), Division 4.5 (commencing with Section 4500), Division 5 (commencing with Section 5000), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7100), to either voluntary or involuntary recipients of services shall be confidential. Information

and records obtained in the course of providing similar services to either voluntary or involuntary recipients prior to 1969 shall also be confidential. Information and records shall be disclosed only in any of the following cases:

(a) In communications between qualified professional persons in the provision of services or appropriate referrals, or in the course of conservatorship proceedings. The consent of the patient, or his or her guardian or conservator shall be obtained before information or records may be disclosed by a professional person employed by a facility to a professional person not employed by the facility who does not have the medical or psychological responsibility for the patient's care.

(b) When the patient, with the approval of the physician, licensed psychologist, or social worker with a master's degree in social work, who is in charge of the patient, designates persons to whom information or records may be released, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him or her in confidence by members of a patient's family.

(c) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he or she may be entitled.

(d) If the recipient of services is a minor, ward, or conservatee, and his or her parent, guardian, guardian ad litem, or conservator designates, in writing, persons to whom records or information may be disclosed, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him or her in confidence by members of a patient's family.

(e) For research, provided that the Director of Mental Health or the Director of Developmental Services designates by regulation, rules for the conduct of research and requires such research to be first reviewed by the appropriate institutional review board or boards. The rules shall include, but need not be limited to, the requirement that all researchers shall sign an oath of confidentiality as follows:

_____

Date

As a condition of doing research concerning persons who have received services from _____ (fill in the facility, agency or person), I, _____, agree to obtain the prior informed consent of such persons who have received services to the maximum degree possible as determined by the appropriate institutional review board or boards for protection of human subjects reviewing my research, and I further agree not to divulge any information obtained in the course of such research to unauthorized persons, and not to publish

or otherwise make public any information regarding persons who have received services such that the person who received services is identifiable.

I recognize that the unauthorized release of confidential information may make me subject to a civil action under provisions of the Welfare and Institutions Code.

(f) To the courts, as necessary to the administration of justice.

(g) To governmental law enforcement agencies as needed for the protection of federal and state elective constitutional officers and their families.

(h) To the Senate Rules Committee or the Assembly Rules Committee for the purposes of legislative investigation authorized by such committee.

(i) If the recipient of services who applies for life or disability insurance designates in writing the insurer to which records or information may be disclosed.

(j) To the attorney for the patient in any and all proceedings upon presentation of a release of information signed by the patient, except that when the patient is unable to sign such release, the staff of the facility, upon satisfying itself of the identity of the attorney, and of the fact that the attorney does represent the interests of the patient, may release all information and records relating to the patient except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him or her in confidence by members of a patient's family.

(k) Upon written agreement by a person previously confined in or otherwise treated by a facility, the professional person in charge of the facility or his or her designee may release any information, except information which has been given in confidence by members of the person's family, requested by a probation officer charged with the evaluation of the person after his or her conviction of a crime if the professional person in charge of the facility determines that such information is relevant to the evaluation. The agreement shall only be operative until sentence is passed on the crime of which the person was convicted. The confidential information released pursuant to this subdivision shall be transmitted to the court separately from the probation report and shall not be placed in the probation report. The confidential information shall remain confidential except for purposes of sentencing. After sentencing, the confidential information shall be sealed.

(*l*) Between persons who are trained and qualified to serve on "multidisciplinary personnel" teams pursuant to subdivision (d) of Section 18951. The information and records sought to be disclosed shall be relevant to the prevention, identification, management, or treatment of an abused child and his or her parents pursuant to Chapter 11 (commencing with Section 18950) of Part 6 of Division 9.

(m) To county patients' rights advocates who have been given

knowing voluntary authorization by a client or a guardian ad litem. The client or guardian ad litem, whoever entered into the agreement, may revoke the authorization at any time, either in writing or by oral declaration to an approved advocate.

(n) To a committee established in compliance with Sections 4070 and 5624.

(o) In providing information as described in Section 7325.5. Nothing in this subdivision shall permit the release of any information other than that described in Section 7325.5.

(p) To the county mental health director or the director's designee, or to a law enforcement officer, or to the person designated by a law enforcement agency, pursuant to Sections 5152.1 and 5250.1.

(q) If the patient gives his or her consent, information specifically pertaining to the existence of genetically handicapping conditions, as defined in Section 341.5 of the Health and Safety Code, may be released to qualified professional persons for purposes of genetic counseling for blood relatives upon request of the blood relative. For purposes of this subdivision, "qualified professional persons" means those persons with the qualifications necessary to carry out the genetic counseling duties under this subdivision as determined by the genetic disease unit established in the State Department of Health Services under Section 309 of the Health and Safety Code. If the patient does not respond or cannot respond to a request for permission to release information pursuant to this subdivision after reasonable attempts have been made over a two-week period to get a response, the information may be released upon request of the blood relative.

(r) When the patient, in the opinion of his or her psychotherapist, presents a serious danger of violence to a reasonably foreseeable victim or victims, then any of the information or records specified in this section may be released to that person or persons and to law enforcement agencies as the psychotherapist determines is needed for the protection of that person or persons. For purposes of this subdivision, "psychotherapist" means anyone so defined within Section 1010 of the Evidence Code.

The amendment of subdivision (d) enacted at the 1970 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the preexisting law.

SEC. 1.3. Section 5328 of the Welfare and Institutions Code is amended to read:

5328. All information and records obtained in the course of providing services under Division 4 (commencing with Section 4000), Division 4.1 (commencing with Section 4400), Division 4.5 (commencing with Section 4500), Division 5 (commencing with Section 5000), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7100), to either voluntary or involuntary recipients of services shall be confidential. Information and records obtained in the course of providing similar services to either voluntary or involuntary recipients prior to 1969 shall also be

confidential. Information and records shall be disclosed only in any of the following cases:

(a) In communications between qualified professional persons in the provision of services or appropriate referrals, or in the course of conservatorship proceedings. The consent of the patient, or his or her guardian or conservator shall be obtained before information or records may be disclosed by a professional person employed by a facility to a professional person not employed by the facility who does not have the medical or psychological responsibility for the patient's care.

(b) When the patient, with the approval of the physician, licensed psychologist, or social worker with a master's degree in social work, who is in charge of the patient, designates persons to whom information or records may be released, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him or her in confidence by members of a patient's family.

(c) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he or she may be entitled.

(d) If the recipient of services is a minor, ward, or conservatee, and his or her parent, guardian, guardian ad litem, or conservator designates, in writing, persons to whom records or information may be disclosed, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him or her in confidence by members of a patient's family.

(e) For research, provided that the Director of Mental Health or the Director of Developmental Services designates by regulation, rules for the conduct of research and requires such research to be first reviewed by the appropriate institutional review board or boards. The rules shall include, but need not be limited to, the requirement that all researchers shall sign an oath of confidentiality as follows:

_____

Date

As a condition of doing research concerning persons who have received services from _____ (fill in the facility, agency or person), I, _____, agree to obtain the prior informed consent of such persons who have received services to the maximum degree possible as determined by the appropriate institutional review board or boards for protection of human subjects reviewing my research, and I further agree not to divulge any information obtained in the course of such research to unauthorized persons, and not to publish or otherwise make public any information regarding persons who have received services such that the person who received services is

identifiable.

I recognize that the unauthorized release of confidential information may make me subject to a civil action under provisions of the Welfare and Institutions Code.

(f) To the courts, as necessary to the administration of justice.

(g) To governmental law enforcement agencies as needed for the protection of federal and state elective constitutional officers and their families.

(h) To the Senate Rules Committee or the Assembly Rules Committee for the purposes of legislative investigation authorized by such committee.

(i) If the recipient of services who applies for life or disability insurance designates in writing the insurer to which records or information may be disclosed.

(j) To the attorney for the patient in any and all proceedings upon presentation of a release of information signed by the patient, except that when the patient is unable to sign such release, the staff of the facility, upon satisfying itself of the identity of the attorney, and of the fact that the attorney does represent the interests of the patient, may release all information and records relating to the patient except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him or her in confidence by members of a patient's family.

(k) Upon written agreement by a person previously confined in or otherwise treated by a facility, the professional person in charge of the facility or his or her designee may release any information, except information which has been given in confidence by members of the person's family, requested by a probation officer charged with the evaluation of the person after his or her conviction of a crime if the professional person in charge of the facility determines that such information is relevant to the evaluation. The agreement shall only be operative until sentence is passed on the crime of which the person was convicted. The confidential information released pursuant to this subdivision shall be transmitted to the court separately from the probation report and shall not be placed in the probation report. The confidential information shall remain confidential except for purposes of sentencing. After sentencing, the confidential information shall be sealed.

(*l*) Between persons who are trained and qualified to serve on "multidisciplinary personnel" teams pursuant to subdivision (d) of Section 18951. The information and records sought to be disclosed shall be relevant to the prevention, identification, management, or treatment of an abused child and his or her parents pursuant to Chapter 11 (commencing with Section 18950) of Part 6 of Division 9.

(m) To county patients' rights advocates who have been given knowing voluntary authorization by a client or a guardian ad litem. The client or guardian ad litem, whoever entered into the

agreement, may revoke such authorization at any time, either in writing or by oral declaration to an approved advocate.

(n) To a committee established in compliance with Sections 4070 and 5624.

(o) In providing information as described in Section 7325.5. Nothing in this subdivision shall permit the release of any information other than that described in Section 7325.5.

(p) To the county mental health director or the director's designee, or to a law enforcement officer, or to the person designated by a law enforcement agency, pursuant to Sections 5152.1 and 5250.1.

(q) If the patient gives his or her consent, information specifically pertaining to the existence of genetically handicapping conditions, as defined in Section 341.5 of the Health and Safety Code, may be released to qualified professional persons for purposes of genetic counseling for blood relatives upon request of the blood relative. For purposes of this subdivision, "qualified professional persons" means those persons with the qualifications necessary to carry out the genetic counseling duties under this subdivision as determined by the genetic disease unit established in the State Department of Health Services under Section 309 of the Health and Safety Code. If the patient does not respond or cannot respond to a request for permission to release information pursuant to this subdivision after reasonable attempts have been made over a two-week period to get a response, the information may be released upon request of the blood relative.

(r) To the agency established in this state to fulfill the requirements and assurances of Section 142 of the federal Developmental Disabilities Act of 1984 for a system to protect and advocate the rights of persons with developmental disabilities, as defined in Section 102(7) of the federal act. The agency shall have access to the records of a person with developmental disabilities who resides in a facility for persons with developmental disabilities when both of the following conditions apply:

(1) The agency has received a complaint from, or on behalf of, the person and the person consents to the disclosure to the extent of his or her capabilities.

(2) The person does not have a parent, guardian, or conservator, or the state or the designee of the state is the person's guardian or conservator.

(s) When the patient, in the opinion of his or her psychotherapist, presents a serious danger of violence to a reasonably foreseeable victim or victims, then any of the information or records specified in this section may be released to that person or persons and to law enforcement agencies as the psychotherapist determines is needed for the protection of that person or persons. For purposes of this subdivision, "psychotherapist" means anyone so defined within Section 1010 of the Evidence Code.

The amendment of subdivision (d) enacted at the 1970 Regular Session of the Legislature does not constitute a change in, but is

declaratory of, the preexisting law.

SEC. 1.5. Section 5328 of the Welfare and Institutions Code is amended to read:

5328. All information and records obtained in the course of providing services under Division 4 (commencing with Section 4000), Division 4.1 (commencing with Section 4400), Division 4.5 (commencing with Section 4500), Division 5 (commencing with Section 5000), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7100), to either voluntary or involuntary recipients of services shall be confidential. Information and records obtained in the course of providing similar services to either voluntary or involuntary recipients prior to 1969 shall also be confidential. Information and records shall be disclosed only in any of the following cases:

(a) In communications between qualified professional persons in the provision of services or appropriate referrals, or in the course of conservatorship proceedings. The consent of the patient, or his or her guardian or conservator shall be obtained before information or records may be disclosed by a professional person employed by a facility to a professional person not employed by the facility who does not have the medical or psychological responsibility for the patient's care.

(b) When the patient, with the approval of the physician, licensed psychologist, or social worker with a master's degree in social work, who is in charge of the patient, designates persons to whom information or records may be released, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him or her in confidence by members of a patient's family.

(c) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he or she may be entitled.

(d) If the recipient of services is a minor, ward, or conservatee, and his or her parent, guardian, guardian ad litem, or conservator designates, in writing, persons to whom records or information may be disclosed, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him or her in confidence by members of a patient's family.

(e) For research, provided that the Director of Mental Health or the Director of Developmental Services designates by regulation, rules for the conduct of research and requires such research to be first reviewed by the appropriate institutional review board or boards. The rules shall include, but need not be limited to, the requirement that all researchers shall sign an oath of confidentiality as follows:

_____

Date

As a condition of doing research concerning persons who have received services from _____ (fill in the facility, agency or person), I, _____, agree to obtain the prior informed consent of such persons who have received services to the maximum degree possible as determined by the appropriate institutional review board or boards for protection of human subjects reviewing my research, and I further agree not to divulge any information obtained in the course of such research to unauthorized persons, and not to publish or otherwise make public any information regarding persons who have received services such that the person who received services is identifiable.

I recognize that the unauthorized release of confidential information may make me subject to a civil action under provisions of the Welfare and Institutions Code.

(f) To the courts, as necessary to the administration of justice.

(g) To governmental law enforcement agencies as needed for the protection of federal and state elective constitutional officers and their families.

(h) To the Senate Rules Committee or the Assembly Rules Committee for the purposes of legislative investigation authorized by such committee.

(i) If the recipient of services who applies for life or disability insurance designates in writing the insurer to which records or information may be disclosed.

(j) To the attorney for the patient in any and all proceedings upon presentation of a release of information signed by the patient, except that when the patient is unable to sign such release, the staff of the facility, upon satisfying itself of the identity of the attorney, and of the fact that the attorney does represent the interests of the patient, may release all information and records relating to the patient except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him or her in confidence by members of a patient's family.

(k) Upon written agreement by a person previously confined in or otherwise treated by a facility, the professional person in charge of the facility or his or her designee may release any information, except information which has been given in confidence by members of the person's family, requested by a probation officer charged with the evaluation of the person after his or her conviction of a crime if the professional person in charge of the facility determines that such information is relevant to the evaluation. The agreement shall only be operative until sentence is passed on the crime of which the person was convicted. The confidential information released pursuant to this subdivision shall be transmitted to the court separately from the probation report and shall not be placed in the probation report. The confidential information shall remain

confidential except for purposes of sentencing. After sentencing, the confidential information shall be sealed.

(*l*) Between persons who are trained and qualified to serve on "multidisciplinary personnel" teams pursuant to subdivision (d) of Section 18951. The information and records sought to be disclosed shall be relevant to the prevention, identification, management, or treatment of an abused child and his or her parents pursuant to Chapter 11 (commencing with Section 18950) of Part 6 of Division 9.

(m) To county patients' rights advocates who have been given knowing voluntary authorization by a client or a guardian ad litem. The client or guardian ad litem, whoever entered into the agreement, may revoke the authorization at any time, either in writing or by oral declaration to an approved advocate.

(n) To a committee established in compliance with Sections 4070 and 5624.

(o) In providing information as described in Section 7325.5. Nothing in this subdivision shall permit the release of any information other than that described in Section 7325.5.

(p) To the county mental health director or the director's designee, or to a law enforcement officer, or to the person designated by a law enforcement agency, pursuant to Sections 5152.1 and 5250.1.

(q) If the patient gives his or her consent, information specifically pertaining to the existence of genetically handicapping conditions, as defined in Section 341.5 of the Health and Safety Code, may be released to qualified professional persons for purposes of genetic counseling for blood relatives upon request of the blood relative. For purposes of this subdivision, "qualified professional persons" means those persons with the qualifications necessary to carry out the genetic counseling duties under this subdivision as determined by the genetic disease unit established in the State Department of Health Services under Section 309 of the Health and Safety Code. If the patient does not respond or cannot respond to a request for permission to release information pursuant to this subdivision after reasonable attempts have been made over a two-week period to get a response, the information may be released upon request of the blood relative.

(r) When the patient, in the opinion of his or her psychotherapist, presents a serious danger of violence to a reasonably foreseeable victim or victims, then any of the information or records specified in this section may be released to that person or persons and to law enforcement agencies as the psychotherapist determines is needed for the protection of that person or persons. For purposes of this subdivision, "psychotherapist" means anyone so defined within Section 1010 of the Evidence Code.

(s) To persons serving on an interagency case management council established in compliance with Section 5606.6 to the extent necessary to perform its duties. This council shall attempt to obtain the consent of the client. If this consent is not given by the client, the

council shall justify in the client's chart why these records are necessary for the work of the council.

The amendment of subdivision (d) enacted at the 1970 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the preexisting law.

SEC. 1.7. Section 5328 of the Welfare and Institutions Code is amended to read:

5328. All information and records obtained in the course of providing services under Division 4 (commencing with Section 4000), Division 4.1 (commencing with Section 4400), Division 4.5 (commencing with Section 4500), Division 5 (commencing with Section 5000), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7100), to either voluntary or involuntary recipients of services shall be confidential. Information and records obtained in the course of providing similar services to either voluntary or involuntary recipients prior to 1969 shall also be confidential. Information and records shall be disclosed only in any of the following cases:

(a) In communications between qualified professional persons in the provision of services or appropriate referrals, or in the course of conservatorship proceedings. The consent of the patient, or his or her guardian or conservator shall be obtained before information or records may be disclosed by a professional person employed by a facility to a professional person not employed by the facility who does not have the medical or psychological responsibility for the patient's care.

(b) When the patient, with the approval of the physician, licensed psychologist, or social worker with a master's degree in social work, who is in charge of the patient, designates persons to whom information or records may be released, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him or her in confidence by members of a patient's family.

(c) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he or she may be entitled.

(d) If the recipient of services is a minor, ward, or conservatee, and his or her parent, guardian, guardian ad litem, or conservator designates, in writing, persons to whom records or information may be disclosed, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him or her in confidence by members of a patient's family.

(e) For research, provided that the Director of Mental Health or the Director of Developmental Services designates by regulation, rules for the conduct of research and requires such research to be first reviewed by the appropriate institutional review board or boards. The rules shall include, but need not be limited to, the

requirement that all researchers shall sign an oath of confidentiality as follows:

_____
Date

As a condition of doing research concerning persons who have received services from _____ (fill in the facility, agency or person), I, _____, agree to obtain the prior informed consent of such persons who have received services to the maximum degree possible as determined by the appropriate institutional review board or boards for protection of human subjects reviewing my research, and I further agree not to divulge any information obtained in the course of such research to unauthorized persons, and not to publish or otherwise make public any information regarding persons who have received services such that the person who received services is identifiable.

I recognize that the unauthorized release of confidential information may make me subject to a civil action under provisions of the Welfare and Institutions Code.

(f) To the courts, as necessary to the administration of justice.

(g) To governmental law enforcement agencies as needed for the protection of federal and state elective constitutional officers and their families.

(h) To the Senate Rules Committee or the Assembly Rules Committee for the purposes of legislative investigation authorized by such committee.

(i) If the recipient of services who applies for life or disability insurance designates in writing the insurer to which records or information may be disclosed.

(j) To the attorney for the patient in any and all proceedings upon presentation of a release of information signed by the patient, except that when the patient is unable to sign such release, the staff of the facility, upon satisfying itself of the identity of the attorney, and of the fact that the attorney does represent the interests of the patient, may release all information and records relating to the patient except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him or her in confidence by members of a patient's family.

(k) Upon written agreement by a person previously confined in or otherwise treated by a facility, the professional person in charge of the facility or his or her designee may release any information, except information which has been given in confidence by members of the person's family, requested by a probation officer charged with the evaluation of the person after his or her conviction of a crime if the professional person in charge of the facility determines that such information is relevant to the evaluation. The agreement shall only be operative until sentence is passed on the crime of which the

person was convicted. The confidential information released pursuant to this subdivision shall be transmitted to the court separately from the probation report and shall not be placed in the probation report. The confidential information shall remain confidential except for purposes of sentencing. After sentencing, the confidential information shall be sealed.

(*l*) Between persons who are trained and qualified to serve on "multidisciplinary personnel" teams pursuant to subdivision (d) of Section 18951. The information and records sought to be disclosed shall be relevant to the prevention, identification, management, or treatment of an abused child and his or her parents pursuant to Chapter 11 (commencing with Section 18950) of Part 6 of Division 9.

(m) To county patients' rights advocates who have been given knowing voluntary authorization by a client or a guardian ad litem. The client or guardian ad litem, whoever entered into the agreement, may revoke such authorization at any time, either in writing or by oral declaration to an approved advocate.

(n) To a committee established in compliance with Sections 4070 and 5624.

(o) In providing information as described in Section 7325.5. Nothing in this subdivision shall permit the release of any information other than that described in Section 7325.5.

(p) To the county mental health director or the director's designee, or to a law enforcement officer, or to the person designated by a law enforcement agency, pursuant to Sections 5152.1 and 5250.1.

(q) If the patient gives his or her consent, information specifically pertaining to the existence of genetically handicapping conditions, as defined in Section 341.5 of the Health and Safety Code, may be released to qualified professional persons for purposes of genetic counseling for blood relatives upon request of the blood relative. For purposes of this subdivision, "qualified professional persons" means those persons with the qualifications necessary to carry out the genetic counseling duties under this subdivision as determined by the genetic disease unit established in the State Department of Health Services under Section 309 of the Health and Safety Code. If the patient does not respond or cannot respond to a request for permission to release information pursuant to this subdivision after reasonable attempts have been made over a two-week period to get a response, the information may be released upon request of the blood relative.

(r) To the agency established in this state to fulfill the requirements and assurances of Section 142 of the federal Developmental Disabilities Act of 1984 for a system to protect and advocate the rights of persons with developmental disabilities, as defined in Section 102(7) of the federal act. The agency shall have access to the records of a person with developmental disabilities who resides in a facility for persons with developmental disabilities when both of the following conditions apply:

(1) The agency has received a complaint from, or on behalf of, the person and the person consents to the disclosure to the extent of his or her capabilities.

(2) The person does not have a parent, guardian, or conservator, or the state or the designee of the state is the person's guardian or conservator.

(s) When the patient, in the opinion of his or her psychotherapist, presents a serious danger of violence to a reasonably foreseeable victim or victims, then any of the information or records specified in this section may be released to that person or persons and to law enforcement agencies as the psychotherapist determines is needed for the protection of that person or persons. For purposes of this subdivision, "psychotherapist" means anyone so defined within Section 1010 of the Evidence Code.

(t) To persons serving on an interagency case management council established in compliance with Section 5606.6 to the extent necessary to perform its duties. This council shall attempt to obtain the consent of the client. If this consent is not given by the client, the council shall justify in the client's chart why these records are necessary for the work of the council.

The amendment of subdivision (d) enacted at the 1970 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the preexisting law.

SEC. 2. Section 8100 of the Welfare and Institutions Code is amended to read:

8100. No person described in Section 8103 or who is a mental patient in any hospital or institution or on leave of absence from any hospital or institution shall own or have in his or her possession or under his or her custody or control any firearms whatsoever or any other deadly weapon.

"Deadly weapon," as used in this section and Sections 8101, 8102, and 8103 means any weapon, the possession or concealed carrying of which is prohibited by Section 12020 of the Penal Code.

SEC. 3. Section 8101 of the Welfare and Institutions Code is amended to read:

8101. Any person who shall knowingly supply, sell, give, or allow possession or control of any firearm or deadly weapon to any person described in Section 8100 or 8103 shall be punishable by imprisonment in a state prison, or in a county jail for a period of not exceeding one year, by a fine of not exceeding one thousand dollars ($1,000), or by both such fine and imprisonment. "Deadly weapon," as used in this section has the meaning prescribed by Section 8100.

SEC. 3.5. Section 8102 of the Welfare and Institutions Code is amended to read:

8102. Whenever a person who has been detained or apprehended for examination of his or her mental condition or who is a person described in Section 8100 or 8103, is found to own, have in his or her possession or under his or her control, any firearm whatsoever, or any other deadly weapon, the firearm or other deadly

weapon shall be confiscated by any law enforcement agency or peace officer, who shall retain custody of the firearm or other deadly weapon.

The firearm or other deadly weapon shall not be released from the custody of the law enforcement agency or peace officer except upon an order of the superior court based upon a finding that the person may possess the firearm or other deadly weapon without endangering others.

"Deadly weapon," as used in this section, has the meaning prescribed by Section 8100.

SEC. 4. Section 8103 of the Welfare and Institutions Code is amended to read:

8103. (a) (1) No person who after October 1, 1955, has been adjudicated by a court of any state to be a danger to others as a result of mental disorder or mental illness, or who has been adjudicated to be a mentally disordered sex offender, shall have in his or her possession, custody, or control any firearm or any other deadly weapon unless there has been issued to the person a certificate by the court of adjudication upon release from treatment or at a later date stating that the person may possess a firearm or any other deadly weapon without endangering others, and the person has not, subsequent to the issuance of the certificate, again been adjudicated by a court to be a danger to others as a result of a mental disorder or mental illness.

(2) The court shall immediately notify the Department of Justice of the court order finding the individual to be a person described in paragraph (1). The court shall also notify the Department of Justice of any certificate issued as described in paragraph (1).

(b) (1) No person who has been found, pursuant to Section 1026 of the Penal Code or the law of any other state or the United States, not guilty by reason of insanity of murder, mayhem, a violation of Section 207 or 209 of the Penal Code in which the victim suffers intentionally inflicted great bodily injury, robbery in which the victim suffers great bodily injury, a violation of Section 451 or 452 of the Penal Code involving a trailer coach, as defined in Section 635 of the Vehicle Code, or any dwelling house, a violation of subdivision 2 or 3 of Section 261 of the Penal Code, a violation of Section 459 of the Penal Code in the first degree, assault with intent to commit murder, a violation of Section 220 of the Penal Code in which the victim suffers great bodily injury, a violation of Section 12303.1, 12303.2, 12303.3, 12308, 12309, or 12310 of the Penal Code, or of a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person, or a violation of the law of any other state or the United States which includes all the elements of any of the above felonies as defined under California law, shall have in his or her possession or under his or her custody or control any firearm or any other deadly weapon.

(2) The court shall immediately notify the Department of Justice of the court order finding the person to be a person described in

paragraph (1).

(c) (1) No person who has been found, pursuant to Section 1026 of the Penal Code or the law of any other state or the United States, not guilty by reason of insanity of any crime other than those described in subdivision (b) shall have in his or her possession, custody, or control any firearm or any other deadly weapon unless the court of commitment has found the person to have recovered sanity, pursuant to Section 1026.2 of the Penal Code or the law of any other state or the United States.

(2) The court shall immediately notify the Department of Justice of the court order finding the person to be a person described in paragraph (1). The court shall also notify the Department of Justice when it finds that the person has recovered his or her sanity.

(d) (1) No person found by a court to be mentally incompetent to stand trial, pursuant to Section 1370 or 1370.1 of the Penal Code or the law of any other state or the United States, shall have in his or her possession, custody, or control any firearm or any other deadly weapon, unless there has been a finding with respect to such person of restoration to competence to stand trial by the committing court, pursuant to Section 1372 of the Penal Code or the law of any other state or the United States.

(2) The court shall immediately notify the Department of Justice of the court order finding the person to be mentally incompetent as described in paragraph (1). The court shall also notify the Department of Justice when it finds that the person has recovered his or her competence.

(e) (1) No person who has been placed under conservatorship by a court, pursuant to Section 5350 or the law of any other state or the United States, because the person is gravely disabled as a result of a mental disorder or impairment by chronic alcoholism shall have in his or her possession, custody, or control any firearm or any other deadly weapon while under the conservatorship if, at the time the conservatorship was ordered or thereafter, the court which imposed the conservatorship found that possession of a firearm or any other deadly weapon by the person would present a danger to the safety of the person or to others. Upon placing any person under conservatorship, and prohibiting firearm or any other deadly weapon possession by the person the court shall notify the person of this prohibition.

(2) The court shall immediately notify the Department of Justice of the court order placing the person under conservatorship and prohibiting firearm or any other deadly weapon possession by the person as described in paragraph (1). The notice shall include the date the conservatorship was imposed and the date the conservatorship is to be terminated. If the conservatorship is subsequently terminated before the date listed in the notice to the Department of Justice or the court subsequently finds that possession of a firearm or any other deadly weapon by the person would no longer present a danger to the safety of the person or others, the

court shall immediately notify the Department of Justice.

(3) All information provided to the Department of Justice pursuant to paragraph (2) shall be kept confidential, separate, and apart from all other records maintained by the department, and shall be used only to determine eligibility to purchase or possess firearms or other deadly weapons. Any person who knowingly furnishes any such information for any other purpose is guilty of a misdemeanor. All such information concerning any person shall be destroyed upon receipt by the Department of Justice of notice of the termination of conservatorship as to that person pursuant to paragraph (2).

(f) Every person who possesses or has under his or her custody or control any firearm or any other deadly weapon in violation of this section is guilty of a felony which is punishable by imprisonment in the state prison, or in the county jail for not more than one year, and which is subject to subdivision (b) of Section 17 of the Penal Code.

(g) "Deadly weapon," as used in this section, has the meaning prescribed by Section 8100.

SEC. 5. (a) Section 1.3 of this bill incorporates amendments to Section 5328 of the Welfare and Institutions Code proposed by both this bill and SB 1088. It shall only become operative if (1) both bills are enacted and become effective January 1, 1986, (2) each bill amends Section 5328 of the Welfare and Institutions Code, and (3) AB 1750 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 1088, in which case Sections 1, 1.5, and 1.7 of this bill shall not become operative.

(b) Section 1.5 of this bill incorporates amendments to Section 5328 of the Welfare and Institutions Code proposed by both this bill and AB 1750. It shall only become operative if (1) both bills are enacted and become effective January 1, 1986, (2) each bill amends Section 5328 of the Welfare and Institutions Code, (3) SB 1088 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1750 in which case Sections 1, 1.3, and 1.7 of this bill shall not become operative.

(c) Section 1.7 of this bill incorporates amendments to Section 5328 of the Welfare and Institutions Code proposed by this bill, SB 1088, and AB 1750. It shall only become operative if (1) all three bills are enacted and become effective January 1, 1986, (2) all three bills amend Section 5328 of the Welfare and Institutions Code, (3) this bill is enacted after SB 1088 and AB 1750, in which case Sections 1, 1.3, and 1.5 of this bill shall not become operative.

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 1325

An act to amend Sections 17052.5, 17052.8, 23601, and 23601.5 of the Revenue and Taxation Code, relating to taxation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. (a) A sum, not to exceed two million four hundred thousand dollars ($2,400,000), is hereby appropriated from the General Fund to the Controller for allocation from the Tax Relief and Refund Account for the purpose of making the refunds provided for in Section 17052.8 of the Revenue and Taxation Code, as enacted by Chapter 904 of the Statutes of 1980, and for the purpose of reimbursing associated administrative costs, in an amount not to exceed one hundred thousand dollars ($100,000), incurred by the Franchise Tax Board.

(b) It is the intent of the Legislature in enacting this statute to provide relief to those individuals whose adjusted gross income was less than fifteen thousand dollars ($15,000) and to those married couples whose adjusted gross income was less than thirty thousand dollars ($30,000), in the taxable year in which the credit was originally claimed and who filed valid claims for a refundable tax credit during the filing period established by former Section 17052.8, as determined by the Franchise Tax Board, for a tax year to which Section 17052.8 applied and for which the refundable tax credit was not paid.

(c) Taxpayers eligible for refunds under this act are individuals who meet all of the following:

(1) Are described in subdivision (b).

(2) Had tax liabilities for the four preceding taxable years, computed for the respective taxable year under the Personal Income Tax Law minus all other credits provided for in the Personal Income Tax Law, except the credits provided in Sections 17053.5, 17061, and 18551.1, the sum of which is less than the refundable tax credit claimed under Section 17052.8 of the Revenue and Taxation Code, as enacted by Chapter 904 of the Statutes of 1980 (relating to energy conservation measures).

(3) Were not required to pay tax on preference income imposed by Chapter 2.1 (commencing with Section 17062) of Part 10 of Division 2 of the Revenue and Taxation Code in the taxable year in which the tax credit was originally claimed.

(d) The amount authorized by the Franchise Tax Board shall equal the amount of the original claim less any portion of the claim which was subsequently used, or could have been used, as an offset

against taxes owed. The amount paid shall not include interest on the original amount claimed.

(e) The Franchise Tax Board shall, within 90 days from the effective date of this act, give notice to all individuals known by the Franchise Tax Board to be potentially eligible for the relief provided by this act. The notice shall be accompanied by a claim form and shall specify that claims for relief shall be filed not later than 90 days from the date the claim form was mailed to the individual by the Franchise Tax Board. No claim shall be authorized by the Franchise Tax Board for payment before 180 days after the effective date of this act. If the Franchise Tax Board determines that the total claims submitted exceed the sum of two million three hundred thousand dollars ($2,300,000), the Franchise Tax Board shall immediately report that fact to the Legislature and the Director of Finance, specifying the amount of the deficiency and shall thereupon pay a prorated amount for all valid claims. The Director of Finance shall include in the budget for the 1986–87 fiscal year an item appropriating an amount sufficient to meet any deficiency in excess of one hundred thousand dollars ($100,000).

SEC. 2. 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 purposes of determining the eligibility of systems installed on multifamily dwellings, the percentage credit specified by this paragraph shall apply to multifamily dwellings 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. 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 this paragraph.

(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, except as provided in paragraph (2).

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 subdivision (h)) 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, except for those multifamily installations described in paragraph (2).

(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, except as provided in paragraph (2). 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, except those multifamily installations described in paragraph (2) of subdivision (a).

(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. 3. 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) (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. This paragraph shall not apply to energy conservation measures installed on or after August 1, 1985.

(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 in this part, except the credits provided in Sections 17053.5, 17061, and 18551.1, such 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 shall 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 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. This subdivision does not apply to taxpayers eligible for a refund pursuant to subparagraph (B) of paragraph (4) of subdivision (a).

(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 (d). 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 (e):

(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 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.

(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 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 window and door materials.

(iv) Exterior shading devices.

(v) Movable insulation such as shutters or thermal drapes.

(vi) Load management devices.

(vii) Floor insulation.

(O) On or after January 1, 1986, the following measures when installed on any premises:

(i) Thermal windows or doors, and interior storm windows which have a U value of 0.45 or less.

(ii) Duty cyclers.

(iii) Clock thermostats.

(iv) Evaporative coolers.

(v) Whole house fans.

(vi) Exterior shading devices.

(vii) Controls or automatic switching devices for the effective use of natural light to replace electric interior lighting which result in a net energy saving.

(viii) Thermal energy storage devices containing control systems.

Energy conservation measures in the generic categories of subparagraphs (A), (B), (C), (D), (E), (F), (K), and (O) 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) 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.

(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. 4. Section 23601 of the Revenue and Taxation Code is amended to read:

23601. (a) (1) There shall be allowed as a credit against the taxes imposed by this part (except the minimum franchise tax and the tax on preference income), an amount equal to the amount determined in paragraph (2), (3), or (6).

(2) Except as provided in subparagraph (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 purposes of determining the eligibility of systems installed on multifamily dwellings, the percentage credit specified by this paragraph shall apply to multifamily dwellings 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. 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 this paragraph.

(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, except as provided in paragraph (2).

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 subdivision (f)) 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, except for those multifamily installations described in paragraph (2).

(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 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 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, except as provided in paragraph (2). 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 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 carried forward and applied against the taxpayer's tax imposed by this part (except for the minimum franchise tax and the tax on preference income) 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 may be 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 carried forward and applied against the taxpayer's tax imposed by this part (except the minimum franchise tax and the tax on preference income) 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) of subdivision (a) shall be reduced so that the combined effective credit shall not exceed 55 percent of such costs, notwithstanding the carryover provisions of subdivision (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, except those multifamily installations described in paragraph (2) of subdivision (a).

(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. 5. 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 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 may be carried forward and applied against the taxpayer's tax imposed by this part (except the minimum franchise tax and the tax on preference income) 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 window and door materials.

(iv) Exterior shading devices.

(v) Movable insulation such as shutters or thermal drapes.

(vi) Load management devices.

(vii) Floor insulation.

(O) On or after January 1, 1986, the following measures when installed on any premises:

(i) Thermal windows or doors, and interior storm windows which have a U value of 0.45 or less.

(ii) Duty cyclers.

(iii) Clock thermostats.

(iv) Evaporative coolers.

(v) Whole house fans.

(vi) Exterior shading devices.

(vii) Controls or automatic switching devices for the effective use of natural light to replace electric interior lighting which result in a net energy saving.

(viii) Thermal energy storage devices containing control systems.

Energy conservation measures in the generic categories of subparagraph (A), (B), (C), (D), (E), (F), (K), and (O) 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) 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.

(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 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. 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 income tax refunds to low-income individuals as soon as possible and thereby mitigate economic hardships, it is necessary for this act to take effect immediately.

CHAPTER 1326

An act to add Section 41853.3 to the Education Code, relating to pupil transportation.

[Approved by Governor September 30, 1985 Filed with Secretary of State October 1, 1985.]

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

SECTION 1. Section 41853.3 is added to the Education Code, to read:

41853.3. (a) On or before February 1, 1986, the Antelope Valley Schools Transportation Agency may request that it be deemed to be a single entity for purposes of receiving transportation allowances pursuant to this article and, if the single entity status is requested, shall cause a notice of the joint powers agreement to be prepared and filed with the Superintendent of Public Instruction. The notice shall include all information required for that notice prescribed by Section 6503.5 of the Government Code.

(b) Upon receipt of the notification described in subdivision (a), state verification of the joint powers agreement, and the consent of each participating agency, the Superintendent of Public Instruction shall authorize the Los Angeles County Office of Education to file consolidated reports and other documents required by this section and emergency rules and regulations prescribed by the superintendent for purposes of receiving transportation allowances for pupil transportation services provided by the Antelope Valley Schools Transportation Agency. The consolidated pupil transportation allowances for the Antelope Valley Schools Transportation Agency shall be apportioned to the Los Angeles County Office of Education until such time as the joint powers agreement executed pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title I of the Government Code is terminated, or until one or more of the participating entities rescinds its consent.

Notwithstanding any other provision of law, the Superintendent of Public Instruction shall adopt emergency rules and regulations in order to implement the provisions of this section. The adopted regulations shall be filed with the Secretary of State as emergency regulations.

(c) The Antelope Valley Schools Transportation Agency shall operate under the requirements of Chapter 5 (commencing with Section 6500) of Division 7 of Title I of the Government Code and shall be subject to the same restrictions as are applicable to school districts under that chapter, including the preparation of budget and financial statements required by Article 1 (commencing with Section 42100) and Article 2 (commencing with Section 42120) of Chapter 6 of Part 24; the accounting and auditing requirements

prescribed by Article 1 (commencing with Section 41000) and Article 2 (commencing with Section 41010) of Chapter 1 of Part 24; and the expenditure and appropriation controls prescribed by Chapter 9 (commencing with Section 42600) of Part 24.

(d) The Antelope Valley Schools Transportation Agency shall annually report to its participating school districts, on forms designated for that purpose by the Superintendent of Public Instruction, any information deemed necessary by the superintendent.

(e) Changes in the membership of the Antelope Valley Schools Transportation Agency shall be approved in accordance with the transportation agency joint powers agreement, or by amendment to that agreement by the transportation agency governing board. The transportation agency and educational entities requesting any change shall notify the superintendent on or before May 1 preceding the beginning of the fiscal year.

(f) For purposes of Section 41851 of the Education Code, the home-to-school transportation aid received by the Antelope Valley Schools Transportation Agency in the 1985–86 fiscal year and each fiscal year thereafter shall be computed as if the home-to-school transportation aid received by the transportation agency in the 1984–85 fiscal year was one million eight hundred thirty thousand seven hundred three dollars ($1,830,703).

(g) The Legislature hereby recognizes that the use of a joint powers agreement by the Antelope Valley Schools Transportation Agency for the purpose of receiving apportionments under Section 41851 of the Education Code is a new concept which requires evaluation prior to approval for use in other areas of the state. On or before January 1, 1988, the State Department of Education, the Department of Finance, the Los Angeles County Office of Education, and the Controller shall conduct an evaluation of the Antelope Valley Schools Transportation Agency and submit recommendations to the Legislature regarding the use of joint powers agreements for these purposes prior to any extension of this authorization for other agreements.

CHAPTER 1327

An act to amend Sections 5510, 5515, 5524, 5537, 5537.1, 5537.2, 5537.3, 5537.4, 5537.5, 5537.7, 5538, and 6737.1 of, to amend, add, and repeal Section 5514 of, and to repeal Section 5537.6 of, the Business and Professions Code, relating to architecture.

[Approved by Governor September 30, 1985 Filed with Secretary of State October 1, 1985.]

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

SECTION 1. Section 5510 of the Business and Professions Code is amended to read:

5510. There is in the Department of Consumer Affairs a California State Board of Architectural Examiners which consists of 10 members.

SEC. 2. Section 5514 of the Business and Professions Code is amended to read:

5514. The membership of the board shall be composed of 10 members, four of whom shall be architects, one of whom shall be a building designer, and five of whom shall be public members.

The four architect members of the board shall be selected from architects in good standing who have been licensed and in practice in this state for at least five years at the time of appointment, and one shall be a resident and in practice in southern California and one shall be a resident and in practice in northern or central California.

The building designer member of the board shall be selected from among building designers who have been engaged as principals in the business of building design for at least five years in the state.

The public members of the board shall not be licentiates of the board.

SEC. 2.2. Section 5514 of the Business and Professions Code is amended to read:

5514. The membership of the board shall be composed of 10 members, five of whom shall be architects and five of whom shall be public members.

The five architect members of the board shall be selected from architects in good standing who have been licensed and in practice in this state for at least five years at the time of appointment, and one shall be a resident and in practice in southern California and one shall be a resident and in practice in northern or central California. The building designer member serving on the board on December 31, 1985, shall continue serving on the board on or 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. 2.4. Section 5514 is added to the Business and Professions Code, to read:

5514. The membership of the board shall be composed of 10 members, five of whom shall be architects and five of whom shall be public members.

The five 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 residents 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. 3. Section 5515 of the Business and Professions Code is amended to read:

5515. Every person appointed shall serve for four years and until the appointment and qualification of his or her successor or until one year shall have elapsed since the expiration of the term for which he or she was appointed, whichever first occurs.

No person shall serve as a member of the board for more than two consecutive terms.

Vacancies occurring prior to the expiration of the term shall be filled by appointment for the unexpired term.

Each appointment shall expire on June 1 of the fourth year following the year in which the previous term expired.

The Governor shall appoint three of the public members and the five licensed members qualified as provided in Section 5514. 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.

SEC. 3.5. Section 5515 of the Business and Professions Code is amended to read:

5515. Every person appointed shall serve for four years and until the appointment and qualification of his or her successor or until one year shall have elapsed since the expiration of the term for which he or she was appointed, whichever first occurs.

No person shall serve as a member of the board for more than two consecutive terms.

Vacancies occurring prior to the expiration of the term shall be filled by appointment for the unexpired term.

Each appointment shall expire on June 1 of the fourth year following the year in which the previous term expired.

The Governor shall appoint three of the public members and the five licensed members qualified as provided in Section 5514. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member.

SEC. 4. Section 5524 of the Business and Professions Code is amended to read:

5524. Six of the members of the board constitute a quorum of the board for the transaction of business. The concurrence of five members of the board present at a meeting duly held at which a quorum is present shall be necessary to constitute an act or decision of the board, except that when all 10 members of the board are present at a meeting duly held, the concurrence of six members shall be necessary to constitute an act or decision of the board.

SEC. 4.5. Section 5537 of the Business and Professions Code is amended to read:

5537. (a) This chapter does not prohibit any person from preparing plans, drawings, or specifications for any of the following:

(1) Single-family dwellings of woodframe construction not more than two stories and basement in height.

(2) Multiple dwellings containing no more than four dwelling units of woodframe construction not more than two stories and basement in height. However, this paragraph shall not be construed as allowing an unlicensed person to design multiple clusters of up to four dwelling units each to form apartment or condominium complexes where the total exceeds four units on any lawfully divided lot.

(3) Garages or other structures appurtenant to buildings described under subdivision (a), of woodframe construction not more than two stories and basement in height.

(4) Agricultural and ranch buildings of woodframe construction, unless the building official having jurisdiction deems that an undue risk to the public health, safety, or welfare is involved.

(b) If any portion of any structure exempted by this section deviates from conventional framing requirements for woodframe construction found in Chapter 25 of the 1985 Edition of the Uniform Building Code or tables of limitation for woodframe construction, as defined by the applicable building code duly adopted by the local jurisdiction or the state, the building official having jurisdiction shall require the preparation of plans, drawings, specifications, or calculations for that portion by, or under the direct supervision of, a licensed architect or registered engineer. The documents for that portion shall bear the stamp and signature of the licensee who is responsible for their preparation.

SEC. 5. Section 5537.1 of the Business and Professions Code is amended to read:

5537.1. A structural engineer, authorized to use that title under the provisions of Chapter 7 (commencing with Section 6700) of Division 3, is exempt from the provisions of this chapter, except that a structural engineer may not use the title "architect," unless he or she holds a license as required in this chapter.

SEC. 5.5. Section 5537.1 of the Business and Professions Code is amended to read:

5537.1. A structural engineer authorized to use that title under the provisions of Chapter 7 (commencing with Section 6700), insofar as he or she practices the profession for which he or she is registered, is exempt from the provisions of this chapter, except that a structural engineer may not use the title "architect," unless he or she holds a license as required in this chapter.

SEC. 6. Section 5537.2 of the Business and Professions Code is amended to read:

5537.2. This chapter shall not be construed as authorizing a licensed contractor to perform design services beyond those described in Section 5537 or in Chapter 9 (commencing with Section 7000), unless those services are performed by or under the direct

supervision of a person licensed to practice architecture under this chapter, or a professional or civil engineer licensed pursuant to 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 that chapter.

However, this section does not prohibit a licensed contractor from performing any of the services permitted by Chapter 9 (commencing with Section 7000) of Division 3 within the classification for which the license is issued. Those services may include the preparation of shop and field drawings for work which he or she has contracted or offered to perform, and designing systems and facilities which are necessary to the completion of contracting services which he or she has contracted or offered to perform.

However, a licensed contractor may not use the title "architect," unless he or she holds a license as required in this chapter.

SEC. 7. Section 5537.3 of the Business and Professions Code is amended to read:

5537.3. A professional engineer registered to practice engineering under the provisions of Chapter 7 (commencing with Section 6700) of Division 3, insofar as he or she practices the profession for which he or she is registered under Chapter 7 of Division 3, is exempt from the provisions of this chapter, except that a professional engineer may not use the title "architect," unless he or she holds a license as required in this chapter.

SEC. 7.5. Section 5537.3 of the Business and Professions Code is amended and renumbered to read:

5537.4. A professional engineer registered to practice engineering under the provisions of Chapter 7 (commencing with Section 6700), insofar as he or she practices the profession for which he or she is registered, is exempt from the provisions of this chapter, except that a professional engineer may not use the title "architect," unless he or she holds a license as required in this chapter.

SEC. 8. Section 5537.4 of the Business and Professions Code is amended to read:

5537.4. A civil engineer, authorized to use that title under the provisions of Chapter 7 (commencing with Section 6700) of Division 3, is exempt from the provisions of this chapter, except that a civil engineer may not use the title "architect," unless he or she holds a license as required in this chapter.

SEC. 8.5. Section 5537.4 of the Business and Professions Code is amended and renumbered to read:

5537.5. A civil engineer authorized to use that title under the provisions of Chapter 7 (commencing with Section 6700), insofar as he or she practices the profession for which he or she is registered, is exempt from the provisions of this chapter, except that a civil engineer may not use the title "architect," unless he or she holds a license as required in this chapter.

SEC. 9. Section 5537.5 of the Business and Professions Code is amended to read:

5537.5. A landscape architect registered under the provisions of Chapter 3.5 (commencing with Section 5615) of Division 3, insofar as he or she practices the profession for which he or she is registered under Chapter 3.5 of Division 3, is exempt from the provisions of this chapter, except that a landscape architect may not use the title "architect," exclusive of the word "landscape," unless he or she holds a license as required in this chapter.

SEC. 9.5. Section 5537.5 of the Business and Professions Code is amended and renumbered to read:

5537.6. A landscape architect registered under the provisions of Chapter 3.5 (commencing with Section 5615), insofar as he or she practices the profession for which he or she is registered, is exempt from the provisions of this chapter, except that a landscape architect may not use the title "architect," exclusive of the word "landscape," unless he or she holds a license as required in this chapter.

SEC. 10. Section 5537.6 of the Business and Professions Code is repealed.

SEC. 11. Section 5537.7 of the Business and Professions Code is amended to read:

5537.7. A land surveyor licensed under the provisions of Chapter 15 (commencing with Section 8700) of Division 3, insofar as he or she practices the profession for which he or she is licensed under Chapter 15 of Division 3, is exempt from the provisions of this chapter, except that a land surveyor may not use the title "architect," unless he or she holds a license as required in this chapter.

SEC. 12. Section 5538 of the Business and Professions Code is amended to read:

5538. This chapter does not prohibit any person from furnishing either alone or with subcontractors, labor and materials, with or without plans, drawings, specifications, instruments of service, or other data covering such labor and materials to be used for any of the following:

(a) For nonstructural store fronts, interior alterations or additions, fixtures, cabinetwork, furniture, or other appliances or equipment.

(b) For any nonstructural work necessary to provide for their installation.

(c) For any nonstructural alterations or additions to any building necessary to or attendant upon the installation of such store fronts, interior alterations or additions, fixtures, cabinetwork, furniture, appliances, or equipment. However, an unlicensed person may not render or offer to render services to another person in connection with the planning, design, preparation of instruments of service, such as drawings and specifications, or administration of construction or alteration, of any component affecting the safety of any building or its occupants, including, but not limited to, structural or seismic components, except as exempted from this chapter by Section 5537.

SEC. 12.5. Section 6737.1 of the Business and Professions Code is amended to read:

6737.1. (a) This chapter does not prohibit any person from

preparing plans, drawings, or specifications for any of the following:

(1) Single-family dwellings of woodframe construction not more than two stories and basement in height.

(2) Multiple dwellings containing no more than four dwelling units of woodframe construction not more than two stories and basement in height. However, this paragraph shall not be construed as allowing an unlicensed person to design multiple clusters of up to four dwelling units each to form apartment or condominium complexes where the total exceeds four units on any lawfully divided lot.

(3) Garages or other structures appurtenant to buildings described under subdivision (a), of woodframe construction not more than two stories and basement in height.

(4) Agricultural and ranch buildings of woodframe construction, unless the building official having jurisdiction deems that an undue risk to the public health, safety or welfare is involved.

(b) If any portion of any structure exempted by this section deviates from conventional framing requirements for woodframe construction found in Chapter 25 of the 1985 Edition of the Uniform Building Code or tables of limitation for woodframe construction, as defined by the applicable building code duly adopted by the local jurisdiction or the state, the building official having jurisdiction shall require the preparation of plans, drawings, specifications, or calculations for that portion by, or under the direct supervision of, a licensed architect or registered engineer. The documents for that portion shall bear the stamp and signature of the licensee who is responsible for their preparation.

SEC. 13. Sections 2.2 and 2.4 of this bill, which amend, repeal, and add Section 5514 of the Business and Professions Code, shall only become operative if AB 2196 and this bill are enacted and become effective on January 1, 1986, each bill amends, adds, and repeals Section 5514 of the Business and Professions Code, and this bill is enacted after AB 2196, in which case Section 2 of this bill and Sections 3 and 4 of AB 2196 shall not become operative.

SEC. 14. Section 3.5 of this bill incorporates amendments to Section 5515 of the Business and Professions Code proposed by both this bill and AB 1326. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 5515 of the Business and Professions Code, and (3) this bill is enacted after AB 1326, in which case Section 3 of this bill shall not become operative.

SEC. 15. Section 5.5 of this bill incorporates amendments to Section 5537.1 of the Business and Professions Code proposed by both this bill and AB 1326. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 5537.1 of the Business and Professions Code, and (3) this bill is enacted after AB 1326, in which case Section 5 of this bill shall not become operative.

SEC. 16. Section 7.5 of this bill incorporates amendments to

Section 5537.3 of the Business and Professions Code proposed by both this bill and AB 1326. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 5537.3 of the Business and Professions Code, and (3) this bill is enacted after AB 1326, in which case Section 7 of this bill shall not become operative.

SEC. 17. Section 8.5 of this bill incorporates amendments to Section 5537.4 of the Business and Professions Code proposed by both this bill and AB 1326. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 5537.4 of the Business and Professions Code, and (3) this bill is enacted after AB 1326, in which case Section 8 of this bill shall not become operative.

SEC. 18. Section 9.5 of this bill incorporates amendments to Section 5537.5 of the Business and Professions Code proposed by both this bill and AB 1326. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 5537.5 of the Business and Professions Code, and (3) this bill is enacted after AB 1326, in which case Section 9 of this bill shall not become operative.

SEC. 19. 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 1328

An act to add Section 2036.1 to the Code of Civil Procedure, to add Sections 783 and 1106 to the Evidence Code, and to amend Sections 11507.6 and 11513 of the Government Code, relating to evidence.

[Approved by Governor September 30, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. The Legislature finds and declares that it is the existing policy of the State of California to ensure that the causes of action for claims of sexual harassment, sexual assault, or sexual battery are given proper meaning. The discovery of sexual aspects of complainant's lives, as well as those of their past and current friends and acquaintances, has the clear potential to discourage complaints and to annoy and harass litigants. That annoyance and discomfort, as a result of defendant or respondent inquiries, is unnecessary and deplorable. Without protection against it, individuals whose intimate lives are unjustifiably and offensively

intruded upon might face the "Catch-22" of invoking their remedy only at the risk of enduring further intrusions into details of their personal lives in discovery, and in open quasi-judicial or judicial proceedings.

The Legislature is mindful that a similar state of affairs once confronted victims in criminal prosecutions for rape, who often ran the risk of finding their own moral characters on trial during the prosecution of their assailants. The Legislature has taken measures to curb those abuses in rape proceedings. It is the intent of the Legislature to take similar measures in sexual harassment, sexual assault, or sexual battery cases.

The Legislature concludes that the use of evidence of a complainant's sexual behavior is more often harassing and intimidating than genuinely probative, and the potential for prejudice outweighs whatever probative value that evidence may have. Absent extraordinary circumstances, inquiry into those areas should not be permitted, either in discovery or at trial.

SEC. 2. Section 2036.1 is added to the Code of Civil Procedure, to read:

2036.1. In any civil action alleging conduct which constitutes sexual harassment, sexual assault, or sexual battery, a party is required to show "good cause" in accordance with Section 2036 to obtain discovery regarding the plaintiff's sexual conduct with individuals other than the alleged perpetrator. That showing shall be made by noticed motion and shall not be made or considered by the court at an ex parte hearing.

SEC. 3. Section 783 is added to the Evidence Code, to read:

783. In any civil action alleging conduct which constitutes sexual harassment, sexual assault, or sexual battery, if evidence of sexual conduct of the plaintiff is offered to attack credibility of the plaintiff under Section 780, the following procedures shall be followed:

(a) A written motion shall be made by the defendant to the court and the plaintiff's attorney stating that the defense has an offer of proof of the relevancy of evidence of the sexual conduct of the plaintiff proposed to be presented.

(b) The written motion shall be accompanied by an affidavit in which the offer of proof shall be stated.

(c) If the court finds that the offer of proof is sufficient, the court shall order a hearing out of the presence of the jury, if any, and at the hearing allow the questioning of the plaintiff regarding the offer of proof made by the defendant.

(d) At the conclusion of the hearing, if the court finds that evidence proposed to be offered by the defendant regarding the sexual conduct of the plaintiff is relevant pursuant to Section 780, and is not inadmissible pursuant to Section 352, the court may make an order stating what evidence may be introduced by the defendant, and the nature of the questions to be permitted. The defendant may then offer evidence pursuant to the order of the court.

SEC. 4. Section 1106 is added to the Evidence Code, to read:

1106. (a) In any civil action alleging conduct which constitutes sexual harassment, sexual assault, or sexual battery, opinion evidence, reputation evidence, and evidence of specific instances of plaintiff's sexual conduct, or any of such evidence, is not admissible by the defendant in order to prove consent by the plaintiff or the absence of injury to the plaintiff, unless the injury alleged by the plaintiff is in the nature of loss of consortium.

(b) Subdivision (a) shall not be applicable to evidence of the plaintiff's sexual conduct with the alleged perpetrator.

(c) If the plaintiff introduces evidence, including testimony of a witness, or the plaintiff as a witness gives testimony, and the evidence or testimony relates to the plaintiff's sexual conduct, the defendant may cross-examine the witness who gives the testimony and offer relevant evidence limited specifically to the rebuttal of the evidence introduced by the plaintiff or given by the plaintiff.

(d) Nothing in this section shall be construed to make inadmissible any evidence offered to attack the credibility of the plaintiff as provided in Section 783.

SEC. 5. Section 11507.6 of the Government Code is amended to read:

11507.6. After initiation of a proceeding in which a respondent or other party is entitled to a hearing on the merits, a party, upon written request made to another party, prior to the hearing and within 30 days after service by the agency of the initial pleading or within 15 days after such service of an additional pleading, is entitled to (1) obtain the names and addresses of witnesses to the extent known to the other party, including, but not limited to, those intended to be called to testify at the hearing, and (2) inspect and make a copy of any of the following in the possession or custody or under the control of the other party:

(a) A statement of a person, other than the respondent, named in the initial administrative pleading, or in any additional pleading, when it is claimed that the act or omission of the respondent as to such person is the basis for the administrative proceeding;

(b) A statement pertaining to the subject matter of the proceeding made by any party to another party or person;

(c) Statements of witnesses then proposed to be called by the party and of other persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, not included in (a) or (b) above;

(d) All writings, including, but not limited to, reports of mental, physical and blood examinations and things which the party then proposes to offer in evidence;

(e) Any other writing or thing which is relevant and which would be admissible in evidence;

(f) Investigative reports made by or on behalf of the agency or other party pertaining to the subject matter of the proceeding, to the extent that such reports (1) contain the names and addresses of witnesses or of persons having personal knowledge of the acts,

omissions or events which are the basis for the proceeding, or (2) reflect matters perceived by the investigator in the course of his or her investigation, or (3) contain or include by attachment any statement or writing described in (a) to (e), inclusive, or summary thereof.

For the purpose of this section, "statements" include written statements by the person signed or otherwise authenticated by him or her, stenographic, mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person, and written reports or summaries of such oral statements.

Nothing in this section shall authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as the attorney's work product.

(g) In any proceeding under subdivision (i) or (j) of Section 12940, or Section 19572 or 19702, alleging conduct which constitutes sexual harassment, sexual assault, or sexual battery, evidence of specific instances of a complainant's sexual conduct with individuals other than the alleged perpetrator is not discoverable unless it is to be offered at a hearing to attack the credibility of the complainant as provided for under subdivision (j) of Section 11513. This subdivision is intended only to limit the scope of discovery; it is not intended to affect the methods of discovery allowed under this section.

SEC. 6. 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, except as hereinafter provided. 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.

In any proceeding under subdivision (i) or (j) of Section 12940, or Section 19572 or 19702, alleging conduct which constitutes sexual harassment, sexual assault, or sexual battery, evidence of specific instances of a complainant's sexual conduct with individuals other than the alleged perpetrator is not admissible at hearing unless offered to attack the credibility of the complainant, as provided for under subdivision (j). Reputation or opinion evidence regarding the sexual behavior of the complainant is not admissible for any purpose.

(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 worker's 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.

(j) Evidence of specific instances of a complainant's sexual conduct with individuals other than the alleged perpetrator is presumed inadmissible absent an offer of proof establishing its relevance and reliability and that its probative value is not substantially outweighed by the probability that its admission will create substantial danger of undue prejudice or confuse the issue.

(k) For purposes of this section "complainant" means any person claiming to have been subjected to conduct which constitutes sexual harassment, sexual assault, or sexual battery.

CHAPTER 1329

An act to amend Section 537 of the Penal Code, relating to crimes.

[Approved by Governor September 30, 1985 Filed with Secretary of State October 1, 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, accommodations, fuel, or services, at a hotel, inn, restaurant, boardinghouse, lodginghouse, apartment house, bungalow court, motel, autocamp, ski area, marina, marine facility, 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, autocamp, marina, marine facility, or public or private campground by the use of any false pretense, or who, after obtaining credit, food, fuel, services, or accommodations, at a hotel, inn, restaurant, boardinghouse, lodginghouse, apartment house, bungalow court, motel, autocamp, marina, marine facility, 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, fuel, services, 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, use of facilities, fuel, services, 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, use of facilities, fuel, services, 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. Section 537 of the Penal Code is amended to read:

537. (a) Any person who obtains any food, fuel, services, or accommodations at a 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. 3. Section 2 of this bill incorporates amendments to Section 537 of the Penal Code proposed by both this bill and AB 405. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 537 of the Penal Code, and (3) this bill is enacted after AB 405, in which case Section 1 of this bill shall not become operative.

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 1330

An act to amend Section 13353 of, and to add Section 23157 to, the Vehicle Code, relating to driving offenses.

[Approved by Governor September 30, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 13353 of the Vehicle Code is amended to read:

13353. (a) (1) Any person who drives a motor vehicle shall be deemed to have given his or her consent to chemical testing of his or her blood, breath, or urine for the purpose of determining the alcoholic content of his or her blood, and to have given his or her consent to chemical testing of his or her blood or urine for the purpose of determining the drug content of his or her blood, if lawfully arrested for any offense allegedly committed in violation of Section 23152 or 23153. The testing shall be incidental to a lawful arrest and administered at the direction of, and when ordered by, a peace officer having reasonable cause to believe the person was driving a motor vehicle in violation of Section 23152 or 23153. The person shall be told that his or her failure to submit to, or the failure to complete, the required chemical testing will result in (A) the suspension of the person's privilege to operate a motor vehicle for a period of six months, (B) the revocation of the person's privilege to operate a motor vehicle for a period of two years if the person has been convicted of a separate violation of Section 23103 as specified in Section 23103.5, 23152, or 23153 within five years of the date of the refusal, or (C) the revocation of the person's privilege to operate a motor vehicle for a period of three years if the person has been convicted of two or more separate violations of Section 23103 as specified in Section 23103.5, 23152, or 23153, or any combination thereof within five years of the date of the refusal.

(2) (A) If the person is lawfully arrested for driving under the influence of an alcoholic beverage, the person shall have the choice of whether the test shall be of his or her blood, breath, or urine, and the officer shall advise the person that he or she has that choice. If the person arrested either is incapable, or states that he or she is incapable, of completing any chosen test, the person shall then have the choice of submitting to and completing any of the remaining tests or test, and the officer shall advise the person that the person has that choice.

(B) If the person is lawfully arrested for driving under the influence of any drug or the combined influence of an alcoholic beverage and any drug, the person shall have the choice of whether the test shall be of his or her blood, breath, or urine, and the officer shall advise the person that he or she has that choice.

(C) An officer may order a person who chooses to submit to a breath test to also submit to a blood or urine test if the officer has reasonable cause to believe that the person was driving under the influence of any drug or the combined influence of an alcoholic beverage and any drug and if the officer has a clear indication that a blood or urine test will reveal evidence of the person being under the influence. The officer shall state in his or her report the facts upon which that belief and that clear indication are based. The

person shall have the choice of submitting to and completing a blood or urine test, and the officer shall advise the person that he or she is required to submit to an additional test and that he or she may choose a test of either blood or urine. If the person arrested either is incapable, or states that he or she is incapable, of completing either chosen test, the person shall then have the choice of submitting to and completing the other remaining test, and the officer shall advise the person that the person has that choice.

(3) If the person is lawfully arrested for an offense allegedly committed in violation of Section 23152 or 23153, and, because of the need for medical treatment, the person is first transported to a medical facility where it is not feasible to administer a particular test of, or to obtain a particular sample of, the person's blood, breath, or urine, the person shall have the choice of those tests which are available at the facility to which that person has been transported. In such an event, the officer shall advise the person of those tests which are available at the medical facility and that the person's choice is limited to those tests which are available.

(4) The officer shall also advise the person that he or she does not have the right to have an attorney present before stating whether he or she will submit to a test or tests, before deciding which test or tests to take, or during administration of the test or tests chosen, and that, in the event of refusal to submit to a test or tests, the refusal may be used against him or her in a court of law.

(5) Any person who is unconscious or otherwise in a condition rendering him or her incapable of refusal shall be deemed not to have withdrawn his or her consent and a test or tests may be administered whether or not the person is told that his or her failure to submit to, or the noncompletion of, the test or tests will result in the suspension or revocation of his or her privilege to operate a motor vehicle. Any person who is dead shall be deemed not to have withdrawn his or her consent and a test or tests may be administered at the direction of a peace officer.

(b) If any person refuses the officer's order to submit to, or fails to complete, a chemical test or tests, upon receipt of the officer's sworn statement that the officer had reasonable cause to believe the person had been driving a motor vehicle in violation of Section 23152 or 23153 and that the person had refused to submit to, or did not complete, the test or tests after being requested by the officer, the department shall (1) suspend the person's privilege to operate a motor vehicle for a period of six months, (2) revoke the person's privilege to operate a motor vehicle for a period of two years if the person has been convicted of a separate violation of Section 23103 as specified in Section 23103.5, 23152, or 23153 within five years of the date of the refusal, or (3) revoke the person's privilege to operate a motor vehicle for a period for three years if the person has been convicted of two or more separate violations of Section 23103 as specified in Section 23103.5, 23152, or 23153, or any combination thereof, within five years of the date of the refusal. The officer's

sworn statement shall be submitted on a form furnished or approved by the department. The suspension or revocation shall not become effective until 10 days after the giving of written notice thereof, as provided for in subdivision (c).

(c) (1) The department shall immediately notify the person in writing of the action taken and, upon the person's request in writing and within 15 days from the date of receipt of that request, shall grant the person an opportunity for a hearing in the same manner and under the same conditions as provided in Article 3 (commencing with Section 14100) of Chapter 3, except as otherwise provided in this section. For purposes of this section, the scope of the hearing shall cover the issues of whether the peace officer had reasonable cause to believe the person had been driving a motor vehicle in violation of Section 23152 or 23153, whether the person was placed under arrest, whether the person refused to submit to, or did not complete, the test or tests after being ordered by a peace officer, and whether, except for the persons described in subdivision (a) who are incapable of refusing, the person had been told that his or her driving privilege would be suspended or revoked if he or she refused to submit to, or did not complete, the test or tests.

(2) An application for a hearing made by the affected person within 10 days of receiving notice of the department's action shall stay the suspension or revocation by the department for a period of 15 days. The department shall, within the period of 15 days, hold a hearing in the county in which the violation occurred. If the department does not grant a hearing within 15 days, the suspension or revocation shall not take place until the person is granted a hearing and is notified of the department's action as provided in paragraph (3). If the county in which the violation occurred is also the county of the person's residence, and the person requests that the hearing be continued to a date beyond the period of 15 days, the suspension or revocation shall become effective immediately upon receipt of the department's notice that the request for continuance has been granted. If the hearing is to be held in a county other than the county of the person's residence, the department shall, upon request, grant the person a continuance of up to 15 days, and shall not suspend or revoke the license until after that time.

(3) If the department determines, upon a hearing of the matter, to suspend or revoke the affected person's privilege to operate a motor vehicle, the suspension or revocation shall not become effective until five days after receipt by the person of the department's notification of that suspension or revocation.

(d) Any person who is afflicted with hemophilia is exempt from the blood test required by this section.

(e) Any person who is afflicted with a heart condition and is using an anticoagulant under the direction of a licensed physician and surgeon is exempt from the blood test required by this section.

(f) A person lawfully arrested for any offense allegedly committed while the person was driving a motor vehicle in violation of Section

23152 or 23153 may request the arresting officer to have a chemical test made of the arrested person's blood, breath, or urine for the purpose of determining the alcoholic content of that person's blood, and, if so requested, the arresting officer shall have the test performed.

SEC. 2. Section 13353 of the Vehicle Code is amended to read:

13353. (a) If any person refuses the officer's order to submit to, or fails to complete, a chemical test or tests pursuant to Section 23157, upon receipt of the officer's sworn statement that the officer had reasonable cause to believe the person had been driving a motor vehicle in violation of Section 23152 or 23153 and that the person had refused to submit to, or did not complete, the test or tests after being requested by the officer, the department shall (1) suspend the person's privilege to operate a motor vehicle for a period of six months, (2) revoke the person's privilege to operate a motor vehicle for a period of two years if the person has been convicted of a separate violation of Section 23103 as specified in Section 23103.5, 23152, or 23153 within five years of the date of the refusal, or (3) revoke the person's privilege to operate a motor vehicle for a period for three years if the person has been convicted of two or more separate violations of Section 23103 as specified in 23103.5, 23152, or 23153, or any combination thereof, within five years of the date of the refusal. The officer's sworn statement shall be submitted on a form furnished or approved by the department. The suspension or revocation shall not become effective until 10 days after the giving of written notice thereof, or until the end of any stay of the suspension, as provided for in subdivision (c) or (d).

(b) The department shall immediately notify the person in writing of the action taken and, upon the person's request in writing and within 15 days from the date of receipt of that request, shall grant the person an opportunity for a hearing in the same manner and under the same conditions as provided in Article 3 (commencing with Section 14100) of Chapter 3, except as otherwise provided in this section. For purposes of this section, the scope of the hearing shall cover the issues of whether the peace officer had reasonable cause to believe the person had been driving a motor vehicle in violation of Section 23152 or 23153, whether the person was placed under arrest, whether the person refused to submit to, or did not complete, the test or tests after being ordered by a peace officer, and whether, except for the persons described in subdivision (a) of Section 23157 who are incapable of refusing, the person had been told that his or her driving privilege would be suspended or revoked if he or she refused to submit to, or did not complete, the test or tests.

(c) An application for a hearing made by the affected person within 10 days of receiving notice of the department's action shall stay the suspension or revocation by the department for a period of 15 days. The department shall, within the period of 15 days, hold a hearing in the county in which the violation occurred. If the department does not grant a hearing within 15 days, the suspension

or revocation shall not take place until the person is granted a hearing and is notified of the department's action as provided in subdivision (d). If the county in which the violation occurred is also the county of the person's residence, and the person requests that the hearing be continued to a date beyond the period of 15 days, the suspension or revocation shall become effective immediately upon receipt of the department's notice that the request for continuance has been granted. If the hearing is to be held in a county other than the county of the person's residence, the department shall, upon request, grant the person a continuance of up to 15 days, and shall not suspend or revoke the license until after that time.

(d) If the department determines, upon a hearing of the matter, to suspend or revoke the affected person's privilege to operate a motor vehicle, the suspension or revocation shall not become effective until five days after receipt by the person of the department's notification of that suspension or revocation.

SEC. 3. Section 23157 is added to the Vehicle Code, to read:

23157. (a) (1) Any person who drives a motor vehicle is deemed to have given his or her consent to chemical testing of his or her blood, breath, or urine for the purpose of determining the alcoholic content of his or her blood, and to have given his or her consent to chemical testing of his or her blood or urine for the purpose of determining the drug content of his or her blood, if lawfully arrested for any offense allegedly committed in violation of Section 23152 or 23153. The testing shall be incidental to a lawful arrest and administered at the direction of, and when ordered by, a peace officer having reasonable cause to believe the person was driving a motor vehicle in violation of Section 23152 or 23153. The person shall be told that his or her failure to submit to, or the failure to complete, the required chemical testing will result in a fine and (A) mandatory imprisonment if the person is convicted of a violation of Section 23152 or 23153, (B) the suspension of the person's privilege to operate a motor vehicle for a period of six months, (C) the revocation of the person's privilege to operate a motor vehicle for a period of two years if the person has been convicted of a separate violation of Section 23103 as specified in Section 23103.5, 23152, or 23153, within five years of the date of the refusal, or (D) the revocation of the person's privilege to operate a motor vehicle for a period of three years if the person has been convicted of two or more separate violations of Section 23103 as specified in Section 23103.5, 23152, or 23153, or any combination thereof, within five years of the date of the refusal.

(2) (A) If the person is lawfully arrested for driving under the influence of an alcoholic beverage, the person has the choice of whether the test shall be of his or her blood, breath, or urine, and the officer shall advise the person that he or she has that choice. If the person arrested either is incapable, or states that he or she is incapable, of completing any chosen test, the person shall submit to the person's choice of the remaining tests or test, and the officer shall

advise the person that the person has that choice.

(B) If the person is lawfully arrested for driving under the influence of any drug or the combined influence of an alcoholic beverage and any drug, the person has the choice of whether the test shall be of his or her blood, breath, or urine, and the officer shall advise the person that he or she has that choice.

(C) An officer may order a person who chooses to submit to a breath test to also submit to a blood or urine test if the officer has reasonable cause to believe that the person was driving under the influence of any drug or the combined influence of an alcoholic beverage and any drug and if the officer has a clear indication that a blood or urine test will reveal evidence of the person being under the influence. The officer shall state in his or her report the facts upon which that belief and that clear indication are based. The person has the choice of submitting to and completing a blood or urine test, and the officer shall advise the person that he or she is required to submit to an additional test and that he or she may choose a test of either blood or urine. If the person arrested either is incapable, or states that he or she is incapable, of completing either chosen test, the person shall submit to and complete the other remaining test.

(3) If the person is lawfully arrested for an offense allegedly committed in violation of Section 23152 or 23153, and, because of the need for medical treatment, the person is first transported to a medical facility where it is not feasible to administer a particular test of, or to obtain a particular sample of, the person's blood, breath, or urine, the person has the choice of those tests which are available at the facility to which that person has been transported. In such an event, the officer shall advise the person of those tests which are available at the medical facility and that the person's choice is limited to those tests which are available.

(4) The officer shall also advise the person that he or she does not have the right to have an attorney present before stating whether he or she will submit to a test or tests, before deciding which test or tests to take, or during administration of the test or tests chosen, and that, in the event of refusal to submit to a test or tests, the refusal may be used against him or her in a court of law.

(5) Any person who is unconscious or otherwise in a condition rendering him or her incapable of refusal is deemed not to have withdrawn his or her consent and a test or tests may be administered whether or not the person is told that his or her failure to submit to, or the noncompletion of, the test or tests will result in the suspension of his or her privilege to operate a motor vehicle. Any person who is dead is deemed not to have withdrawn his or her consent and a test or tests may be administered at the direction of a peace officer.

(b) Any person who is afflicted with hemophilia is exempt from the blood test required by this section.

(c) Any person who is afflicted with a heart condition and is using an anticoagulant under the direction of a licensed physician and

surgeon is exempt from the blood test required by this section.

(d) A person lawfully arrested for any offense allegedly committed while the person was driving a motor vehicle in violation of Section 23152 or 23153 may request the arresting officer to have a chemical test made of the arrested person's blood, breath, or urine for the purpose of determining the alcoholic content of that person's blood, and, if so requested, the arresting officer shall have the test performed.

SEC. 7. Sections 2 and 3 of this bill incorporates amendments to Section 13353 of the Vehicle Code proposed by both this bill and AB 331 as reflected in that section and in Section 23157 proposed by AB 331. They shall only become operative if (1) both bills are enacted and become effective on January 1, 1987, (2) each bill amends Section 13353 of the Vehicle Code and AB 331 adds Section 23157 to the Vehicle Code, and (3) this bill is enacted after AB 331, in which case Section 1 of this bill shall not become operative.

CHAPTER 1331

An act to amend Section 2714 of the Unemployment Insurance Code, relating to employment.

[Approved by Governor September 30, 1985. Filed with Secretary of State October 1, 1985.]

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

SECTION 1. Section 2714 of the Unemployment Insurance Code as amended by Section 6 of Chapter 1127 of the Statutes of 1984, is amended to read:

2714. (a) All medical records of the department obtained under this part, except to the extent necessary for the proper administration of this part or as provided herein, or to the extent necessary for the proper administration of public social services pursuant to the Welfare and Institutions Code, shall be confidential and shall not be published or be open to public inspection in any manner revealing the identity of the claimant, or the nature or cause of his or her disability. These records are not admissible in evidence in any action or special proceeding other than one arising under this division or one arising under Division 9 (commencing with Section 10000) of the Welfare and Institutions Code to determine entitlement to, and directly connected with and limited to the administration of, public social services. The department may reveal its records to the Director of Social Services or his or her representatives, and may make available to the Department of Rehabilitation all records in the case file of a claimant, but the information shall remain confidential and shall not be disclosed except as provided herein. The department shall not make available

to the Department of Rehabilitation any records in the case file of a claimant who requests that these records not be made available to the Department of Rehabilitation, and shall provide each claimant an opportunity to make this request when a claim for disability benefits is made.

(b) The department shall, to the extent permitted by federal law and regulations, and to the extent the information is available and accessible within the constraints and configurations of existing department records, provide to any law enforcement agency the name, address, telephone number, birth date, social security number, and physical description of any person who has applied for or received benefits under this part, if a warrant has been issued for the person for commission of a felony. The information shall be released to any law enforcement agency only upon a written request from the agency specifying that a warrant of arrest for the commission of a felony has been issued as to the applicant or recipient. This request may be made only by the head of the law enforcement agency, or by an employee of the agency so authorized and identified by name and title by the head of the agency in writing to the department. The department shall notify all applicants for benefits that release of confidential information from their records will not be protected should there be a felony arrest warrant issued against the applicant. This section shall not be construed to authorize the release of a general list identifying individuals applying for or receiving benefits to any law enforcement agency.

The department shall maintain records pursuant to this subdivision only for periods required under regulations or statutes enacted for the administration of its programs.

(c) This section shall remain in effect until January 1, 1988, and on that date is repealed.

SEC. 2. Section 2714 of the Unemployment Insurance Code, as amended by Section 7 of Chapter 1127 of the Statutes of 1984, is amended to read:

2714. (a) All medical records of the department obtained under this part, except to the extent necessary for the proper administration of this part or as provided herein, or to the extent necessary for the proper administration of public social services pursuant to the Welfare and Institutions Code, shall be confidential and shall not be published or be open to public inspection in any manner revealing the identity of the claimant, or the nature or cause of his or her disability. These records are not admissible in evidence in any action or special proceeding other than one arising under this division or one arising under Division 9 (commencing with Section 10000) of the Welfare and Institutions Code to determine entitlement to, and directly connected with and limited to the administration of, public social services. The department may reveal its records to the Director of Social Services or his or her representatives, and may reveal the identity only of the claimant to the Department of Rehabilitation, but the information shall remain

confidential and shall not be disclosed except as provided herein.

(b) The department shall, to the extent permitted by federal law and regulations, and to the extent the information is available and accessible within the constraints and configurations of existing department records, provide to any law enforcement agency the name, address, telephone number, birth date, social security number, and physical description of any person who has applied for or received benefits under this part, if a warrant has been issued for the person for commission of a felony. The information shall be released to any law enforcement agency only upon a written request from the agency specifying that a warrant of arrest for the commission of a felony has been issued as to the applicant or recipient. This request may be made only by the head of the law enforcement agency, or by an employee of the agency so authorized and identified by name and title by the head of the agency in writing to the department. The department shall notify all applicants for benefits that release of confidential information from their records will not be protected should there be a felony arrest warrant issued against the applicant. This section shall not be construed to authorize the release of a general list identifying individuals applying for or receiving benefits to any law enforcement agency.

The department shall maintain records pursuant to this subdivision only for periods required under regulations or statutes enacted for the administration of its programs.

(c) This section shall become operative on January 1, 1988.

CHAPTER 1332

An act to amend Sections 6480, 6481, 6482, 6483, 6484, 8670, 8671, 8672, and 8680 of, to add Chapter 13 (commencing with Section 6640) to Part 5 of Division 7 of, to add Part 6.5 (commencing with Section 8660) to Division 10 of, and to add Section 10204.5 to, the Streets and Highways Code, relating to assessment bonds, and declaring the urgency thereof to take effect immediately.

[Approved by Governor September 30, 1985. Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 6480 of the Streets and Highways Code is amended to read:

6480. If any lot or parcel of land for which a bond has been issued is divided into two or more separate lots or parcels of land, including separate condominium interests, or if any two or more separate lots or parcels of land or separate condominium interests are combined into fewer lots or parcels, the bond or bonds may be surrendered and new bonds issued to the holder of the existing bond or bonds in the

manner prescribed in this chapter.

SEC. 2. Section 6481 of the Streets and Highways Code is amended to read:

6481. When it is desired that new bonds be issued, an application therefor in writing signed by the owner of any interest in any of the lots or parcels, including condominium interests, into which the original lot or parcel has been divided, or by the owner of the lots or parcels into which the original lots or parcels have been combined, shall be filed with the street superintendent. The application shall indicate how the original lot or parcel has been divided or how the original lots or parcels have been combined, request the street superintendent to apportion the amount remaining unpaid on the assessment in accordance with the division or combination, and be accompanied by a fee of five dollars ($5) for each separate part or parcel of land into which the original lot or parcel has been divided or for each original lot or parcel from which the newly combined lots or parcels were aggregated. If the legislative body determines that the fee set forth above is not sufficient to reimburse the city for the necessary administrative costs in processing applications under this chapter, the legislative body by resolution may fix a fee in an amount that will reimburse the city for the necessary costs in processing applications under this chapter. The street superintendent shall deposit all of these fees in the treasury.

SEC. 3. Section 6482 of the Streets and Highways Code is amended to read:

6482. Upon receipt of the application and fee the street superintendent shall apportion to each separate part of the original lot or parcel of land the proportionate part of the amount remaining unpaid on the assessment that would have been levied thereon had the lot or parcel of land been so divided at the time the original assessment was made, or shall apportion to each combined parcel the proportionate part of the amount remaining unpaid on the assessment that would have been levied thereon had the parcel been so combined at the time the original assessment was made.

SEC. 4. Section 6483 of the Streets and Highways Code is amended to read:

6483. When the apportionment has been made an application signed by all persons owning an interest in the original lot or parcel or lots or parcels of land and by the holder of the existing bond on the lot or parcel of land or lots or parcels may be filed with the treasurer requesting that new bonds be issued for the amounts shown by the apportioned assessment. The application shall be accompanied by evidence satisfactory to the treasurer that it is signed by all of the necessary persons.

SEC. 5. Section 6484 of the Streets and Highways Code is amended to read:

6484. When the treasurer has ascertained that the application is signed by all the necessary persons he or she shall so advise the street superintendent. The street superintendent shall thereupon amend

the recorded diagram and assessment to conform to the division or combination and apportionment and assign new assessment numbers to each separate part of the original lot or parcel of land.

SEC. 6. Chapter 13 (commencing with Section 6640) is added to Part 5 of Division 7 of the Streets and Highways Code, to read:

CHAPTER 13. REFUNDING OF BONDS

6640. Bonds issued pursuant to this part may be refunded pursuant to the procedures in Division 11.5 (commencing with Section 9500).

SEC. 7. Part 6.5 (commencing with Section 8660) is added to Division 10 of the Streets and Highways Code, to read:

PART 6.5. VARIABLE INTEREST RATE BONDS

8660. As an alternative to any other authority, a legislative body may, at its discretion, issue bonds bearing a variable interest rate pursuant to this division. This part does not alter or restrict authority to authorize assessments or issue bonds pursuant to any other provision of this division in any way. All provisions of this division shall apply to proceedings pursuant to this part, except as expressly provided in this part.

8660.5. The legislative body may determine to issue serial or term bonds, or both, bearing a variable interest rate that represent and are secured by assessments which are made to pay the cost of any authorized work or improvement. The bonds shall be sold at not less than 95 percent of the principal amount in the manner determined by the legislative body.

8661. If the legislative body determines to issue bonds as provided in this part to represent the expense of any proposed work or improvement, it shall, in the resolution of intention to do the work, do all of the following:

(a) Declare that the serial or term bonds are issued pursuant to this division to represent the expenses of the proposed work or improvement.

(b) Specify that the bonds may bear a variable rate of interest.

(c) Specify the maximum rate of interest which the bonds may bear.

8662. The bonds shall be substantially in the form set forth in Section 8652, except as revised to conform to this part.

8663. The unpaid assessments shall be payable in substantially the manner set forth in Section 8680, or in substantially the same manner, but at more frequent intervals, as provided by the legislative body by resolution. The legislative body may designate an official, including an official other than the county tax collector, or other agent, to collect and maintain records of the collection of the assessments, including a procedure other than through the property tax collection procedure prescribed in this division. The legislative

body may authorize an additional assessment to pay the costs of collection, not to exceed the percentages or amounts set forth in Section 8682, and an additional amount to cover the costs of registration, not to exceed the percentages and amounts set forth in Section 8682.1. The legislative body may authorize an additional assessment to pay for incidental expenses of the financing. The assessments and the interest on the assessments for each pay period shall be payable at the end of the pay period and shall be delinquent thereafter, and shall bear the same proportionate penalties and interest after delinquency as the general taxes on real property of the city.

8663.5. Interest on all unpaid assessments shall run from the date of the bonds, and shall be computed for each interest pay period at the date determined pursuant to the terms of the bond for that interest pay period.

8664. 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, if any, as determined by the legislative body, not to exceed 5 percent of the principal.

8664.3. The legislative body may, by resolution, specify that the interest rate on the bonds may vary from time to time as determined by a bond index or some other means prescribed in the resolution.

8664.5. The legislative body may, by resolution, specify terms and conditions under which the bonds may be converted to a fixed interest rate.

8665. The legislative body may, by resolution, specify terms and conditions under which the city agrees to repurchase the bonds. The legislative body may secure a letter of credit or similar agreement to secure payment or repurchase of any bonds, and the resulting costs may be treated as incidental expenses. The legislative body may engage a remarketing agent and an indexing agent, subject to terms and conditions agreed to by the legislative body, and the resulting costs may be treated as incidental expenses.

8665.5. The notice of assessment recorded with the county recorder pursuant to Section 3114 shall include the following statement:

Notice is further given that unpaid assessments are subject to interest at a variable interest rate.

SEC. 8. Section 8670 of the Streets and Highways Code is amended to read:

8670. The bonds and interest shall be paid at the office of the treasurer or of another paying agent designated by the legislative body.

SEC. 9. Section 8671 of the Streets and Highways Code is amended to read:

8671. The treasurer or designated paying agent shall keep a

redemption fund designated by the name of the bonds, into which he or she shall place all sums received 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 or she shall disburse and pay the bonds and the interest due thereon upon presentation of the proper bonds and coupons. Alternatively, if the treasurer collects the assessments, all sums received may be forwarded to the paying agent designated by the legislative body for paying bonds and interest. 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 or the designated paying agent shall keep a register in his or her office showing the series, number, date, amount, rate of interest, and last known holder of each bond, and the number and amount of each interest coupon paid. The treasurer or agent shall cancel and file each bond and coupon which he or she pays.

SEC. 11. Section 8680 of the Streets and Highways Code is amended to read:

8680. Except as provided in Section 8663, the unpaid assessments shall be payable in annual series corresponding in number to the number of series of bonds issued An annual proportion of each assessment shall be payable in each year preceding the date of maturity of each of the several series of bonds which have been issued, sufficient to pay the bonds when due. The annual proportion of each assessment coming due in any year, together with the annual interest on the assessment, shall be payable in the same manner and at the same time and in the same installments as the general taxes of the city on real property are payable and the assessment installments and the annual interest on the assessment shall be payable and become delinquent at the same times and in the same proportionate amounts and bear the same proportionate penalties and interest after delinquency as do the general taxes on real property of the city.

SEC. 12. Section 10204.5 is added to the Streets and Highways Code, to read:

10204.5. In preparing the report in which assessments are apportioned pursuant to subdivision (e) of Section 10204, the person or board to whom the improvement is referred by the legislative body may presume that facilities which are required to meet the needs of future residents of an area, as indicated by a general or specific plan for the area, will benefit undeveloped and underdeveloped property within the area. If the legislative body adopts the report, that presumption shall be conclusive.

SEC. 13. It is the intent of the Legislature that the amendments made to Sections 6480, 6481, 6482, 6483, and 6484 of the Streets and Highways Code by this act are declarations of existing law and make no substantive change in the meaning or intent of those sections.

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

In order to obtain the maximum public benefit from this act during the current but temporary period of favorable bond market conditions, it is necessary that this act take effect immediately.

CHAPTER 1333

An act to amend Sections 14103.7, 14105.1, 14132, and 14171 of the Welfare and Institutions Code, relating to medical assistance.

[Approved by Governor September 30, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 14103.7 of the Welfare and Institutions Code is amended to read:

14103.7. The department shall develop procedure codes for durable medical equipment and orthotic and prosthetic equipment and services, to enable the fiscal intermediary to efficiently and expeditiously process claims for the equipment or services.

For the purposes of this section, durable medical equipment, orthotics, and prosthetics shall include such equipment and accessories as the director may provide by regulation, as authorized by this chapter.

SEC. 2. Section 14105.1 of the Welfare and Institutions Code is amended to read:

14105.1. (a) In determining rates of reimbursement for inpatient hospital services the department shall use reimbursement policy existing on the date prior to the effective date of this act. The director shall have authority to modify this reimbursement policy. The director shall implement a new reimbursement policy of peer grouping of hospitals through the promulgation of emergency regulations after required federal approvals are obtained. The department may adjust interim payment percentages to hospitals in order to approximate final settlement and may control or freeze charges in order to carry out the provisions of this section. The provisions of this section shall cease to apply to a hospital when the department enters into a contract, pursuant to Article 2.6 (commencing with Section 14081), either with that hospital or with other hospitals to the exclusion of that hospital for services covered under the contracts.

(b) Notwithstanding any other provision of law, the department may make interim rate adjustments and also implement collection procedures to recover overpayments to hospitals, at tentative and

final settlement. These recoveries shall be based on audits or examinations made by or on behalf of the department pursuant to Sections 10722 and 14170, including the application of Sections 51536, 51537, and 51539 of Title 22 of the California Administrative Code at tentative and final settlement. Recovery may be made whether or not appeals by the hospitals are pending. Collection of overpayments shall be made in accordance with Section 14172.5.

(c) The amendment of this section made at the 1985 portion of the 1985–86 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the existing law. This declaration shall not apply to any lawsuits filed on or before July 9, 1985.

SEC. 3. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry, physician, nurse practitioner services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered in an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered, subject to utilization controls. Nothing in this subdivision shall be construed to require prior authorization for anesthesiologist services provided as part of an outpatient medical procedure or for portable X-ray services in an intermediate care facility or a skilled nursing facility.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental

services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, nurse practitioner services pursuant to Section 14115.6, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization

controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, and other prophylaxis treatment for children 17 years of age and under are covered.

(s) Paramedic services performed by a city, county, or special district, or pursuant to a contract with a city, county, or special district, and pursuant to a program established under Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2 of the Health and Safety Code by a paramedic certified pursuant to that article, and consisting of defibrillation and those services specified in subdivision (3) of Section 1482 of the article.

This subdivision shall be in effect only to the extent federal financial participation is available as set forth in Section 14106.6.

(t) In-home medical care services are covered when medically appropriate and subject to utilization controls, for beneficiaries who would otherwise require care for an extended period of time in an acute care hospital at a cost higher than in-home medical care services. The director shall have the authority under this section to contract with organizations qualified to provide in-home medical care services to such persons. Such services may be provided to patients placed in facilities such as skilled nursing or intermediate care facilities, or to persons in shared or congregate living arrangements, if a home setting is not medically appropriate or available to the beneficiary. As used in this section, "in-home medical care service" includes utility bills directly attributable to continuous, 24-hour operation of life-sustaining medical equipment, to the extent that federal financial participation is available.

(u) Home and community-based services approved by the United States Department of Health and Human Services may be covered to the extent that federal financial participation is available for such services under waivers granted in accordance with Section 1915 of the federal Social Security Act. The director may seek waivers for any or all home and community-based services approvable under Section 1915 of the federal Social Security Act. Coverage for such services shall be limited by the terms, conditions, and duration of the

federal waivers.

The department shall submit a report, as provided in Section 28 of the 1982 Budget Act, 30 days prior to providing these services as Medi-Cal benefits. The report shall be submitted to the Joint Legislative Budget Committee and the fiscal committees and shall address the cost effectiveness of services provided pursuant to this subdivision.

(v) Comprehensive perinatal services, as provided through an agreement with a health care provider designated in Section 14134.5 and meeting the standards developed by the department pursuant to Section 14134.5, subject to utilization controls.

The department shall seek any federal waivers necessary to implement the provisions of this subdivision. The provisions for which appropriate federal waivers cannot be obtained shall not be implemented. Provisions for which waivers are obtained or for which waivers are not required shall be implemented notwithstanding any inability to obtain federal waivers for the other provisions. No provision of this subdivision shall be implemented unless matching funds from Title XIX of the federal Social Security Act are available

(w) When a claim for treatment provided to a beneficiary includes both services which are authorized and reimbursable under this chapter, and services which are not reimbursable under this chapter, that portion of the claim for the treatment and services authorized and reimbursable under this chapter shall be payable.

SEC. 3.1. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry, physician, nurse practitioner services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services,

including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered in an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered, subject to utilization controls. Nothing in this subdivision shall be construed to require prior authorization for anesthesiologist services provided as part of an outpatient medical procedure or for portable X-ray services in an intermediate care facility or a skilled nursing facility.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the

beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, nurse practitioner services pursuant to Section 14115.6, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, and other prophylaxis treatment for children 17 years of age and under are covered.

(s) Paramedic services performed by a city, county, or special district, or pursuant to a contract with a city, county, or special district, and pursuant to a program established under Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2 of the Health and Safety Code by a paramedic certified pursuant to that article, and consisting of defibrillation and those services specified in subdivision (3) of Section 1482 of the article.

This subdivision shall be in effect only to the extent federal financial participation is available as set forth in Section 14106.6.

(t) In-home medical care services are covered when medically appropriate and subject to utilization controls, for beneficiaries who would otherwise require care for an extended period of time in an acute care hospital at a cost higher than in-home medical care services. The director shall have the authority under this section to contract with organizations qualified to provide in-home medical care services to such persons. These services may be provided to patients placed in facilities such as skilled nursing or intermediate care facilities, or to persons in shared or congregate living

arrangements, if a home setting is not medically appropriate or available to the beneficiary. As used in this section, "in-home medical care service" includes utility bills directly attributable to continuous, 24-hour operation of life-sustaining medical equipment, to the extent that federal financial participation is available.

As used in this subdivision, in-home medical care services, include, but are not limited to:

(1) Level of care and cost of care evaluations.

(2) Expenses, directly attributable to home care activities, for materials.

(3) Physician fees for home visits.

(4) Expenses directly attributable to home care activities for shelter and modification to shelter.

(5) Expenses directly attributable to additional costs of special diets, including tube feeding.

(6) Medically related personal services.

(7) Home nursing education.

(8) Emergency maintenance repair.

(9) Home health agency personnel benefits which permit coverage of care during periods when regular personnel are on vacation or using sick leave.

(10) All services needed to maintain antiseptic conditions at stoma or shunt sites on the body.

(11) Emergency and nonemergency medical transportation.

(12) Medical supplies.

(13) Medical equipment, including, but not limited to, scales, gurneys, and equipment racks suitable for paralyzed patients.

(14) Utility use directly attributable to the requirements of home care activities which are in addition to normal utility use.

(15) Special drugs and medications.

(16) Home health agency supervision of visiting staff which is medically necessary, but not included in the home health agency rate.

(17) Therapy services.

(18) Household appliances and household utensil costs directly attributable to home care activities.

(19) Modification of medical equipment for home use.

(20) Training and orientation for use of life support systems, including, but not limited to, support of respiratory functions.

Beneficiaries receiving in-home medical care services are entitled to the full range of services within the Medi-Cal scope of benefits as defined by this section, subject to medical necessity and applicable utilization control. Services provided pursuant to this subdivision, which are not otherwise included in the Medi-Cal schedule of benefits, shall be available only to the extent that federal financial participation for these services is available in accordance with a home and community-based services waiver.

(u) Home and community-based services approved by the United States Department of Health and Human Services may be covered

to the extent that federal financial participation is available for such services under waivers granted in accordance with Section 1915 of the federal Social Security Act. The director may seek waivers for any or all home and community-based services approvable under Section 1915 of the federal Social Security Act. Coverage for such services shall be limited by the terms, conditions, and duration of the federal waivers.

The department shall submit a report, as provided in Section 28 of the 1982 Budget Act, 30 days prior to providing these services as Medi-Cal benefits. The report shall be submitted to the Joint Legislative Budget Committee and the fiscal committees and shall address the cost effectiveness of services provided pursuant to this subdivision.

(v) Comprehensive perinatal services, as provided through an agreement with a health care provider designated in Section 14134.5 and meeting the standards developed by the department pursuant to Section 14134.5, subject to utilization controls.

The department shall seek any federal waivers necessary to implement the provisions of this subdivision. The provisions for which appropriate federal waivers cannot be obtained shall not be implemented. Provisions for which waivers are obtained or for which waivers are not required shall be implemented notwithstanding any inability to obtain federal waivers for the other provisions. No provision of this subdivision shall be implemented unless matching funds from Title XIX of the federal Social Security Act are available.

(w) When a claim for treatment provided to a beneficiary includes both services which are authorized and reimbursable under this chapter, and services which are not reimbursable under this chapter, that portion of the claim for the treatment and services authorized and reimbursable under this chapter shall be payable.

SEC. 3.2. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry, physician, nurse practitioner services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical

therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered in an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered, subject to utilization controls. Nothing in this subdivision shall be construed to require prior authorization for anesthesiologist services provided as part of an outpatient medical procedure or for portable X-ray services in an intermediate care facility or a skilled nursing facility.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly

established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, nurse practitioner services pursuant to Section 14115.6, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, and other prophylaxis treatment for children 17 years of age and under are covered.

(s) Paramedic services performed by a city, county, or special district, or pursuant to a contract with a city, county, or special district, and pursuant to a program established under Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2 of the Health and Safety Code by a paramedic certified pursuant to that article, and consisting of defibrillation and those services specified in subdivision (3) of Section 1482 of the article.

This subdivision shall be in effect only to the extent federal financial participation is available as set forth in Section 14106.6.

(t) In-home medical care services are covered when medically appropriate and subject to utilization controls, for beneficiaries who would otherwise require care for an extended period of time in an

acute care hospital at a cost higher than in-home medical care services. The director shall have the authority under this section to contract with organizations qualified to provide in-home medical care services to such persons. Such services may be provided to patients placed in facilities such as skilled nursing or intermediate care facilities, or to persons in shared or congregate living arrangements, if a home setting is not medically appropriate or available to the beneficiary. As used in this section, "in-home medical care service" includes utility bills directly attributable to continuous, 24-hour operation of life-sustaining medical equipment, to the extent that federal financial participation is available.

(u) Home and community-based services approved by the United States Department of Health and Human Services shall be covered only to the extent that federal financial participation is available for such services under waivers granted in accordance with Section 1915 of the federal Social Security Act. The director shall seek waivers for any or all home and community-based services which he or she determines are approvable under Section 1915 of the federal Social Security Act. Coverage for such services shall be limited by the terms, conditions, and duration of the federal waivers.

The department shall submit a report, as provided in Section 28 of the 1982 Budget Act, 30 days prior to providing these services as Medi-Cal benefits. The report shall be submitted to the Joint Legislative Budget Committee and the fiscal committees and shall address the cost effectiveness of services provided pursuant to this subdivision.

(v) Comprehensive perinatal services, as provided through an agreement with a health care provider designated in Section 14134.5 and meeting the standards developed by the department pursuant to Section 14134.5, subject to utilization controls.

The department shall seek any federal waivers necessary to implement the provisions of this subdivision. The provisions for which appropriate federal waivers cannot be obtained shall not be implemented. Provisions for which waivers are obtained or for which waivers are not required shall be implemented notwithstanding any inability to obtain federal waivers for the other provisions. No provision of this subdivision shall be implemented unless matching funds from Title XIX of the federal Social Security Act are available.

(w) When a claim for treatment provided to a beneficiary includes both services which are authorized and reimbursable under this chapter, and services which are not reimbursable under this chapter, that portion of the claim for the treatment and services authorized and reimbursable under this chapter shall be payable.

SEC. 3.3. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center,

optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry, physician, nurse practitioner services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered in an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered, subject to utilization controls. Nothing in this subdivision shall be construed to require prior authorization for anesthesiologist services provided as part of an outpatient medical procedure or for portable X-ray services in an intermediate care facility or a skilled nursing facility.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. The department's utilization controls shall not require X-rays as a condition of reimbursement for fillings for children under 21 years of age. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, nurse practitioner services pursuant to Section 14115.6, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, other prophylaxis treatment for children 17 years of age and under, and dental sealants subject to appropriate utilization controls are covered.

(s) Paramedic services performed by a city, county, or special district, or pursuant to a contract with a city, county, or special district, and pursuant to a program established under Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2 of the Health and Safety Code by a paramedic certified pursuant to that article, and consisting of defibrillation and those services specified in subdivision (3) of Section 1482 of the article.

This subdivision shall be in effect only to the extent federal financial participation is available as set forth in Section 14106.6.

(t) In-home medical care services are covered when medically appropriate and subject to utilization controls, for beneficiaries who would otherwise require care for an extended period of time in an acute care hospital at a cost higher than in-home medical care services. The director shall have the authority under this section to contract with organizations qualified to provide in-home medical care services to such persons. Such services may be provided to patients placed in facilities such as skilled nursing or intermediate care facilities, or to persons in shared or congregate living arrangements, if a home setting is not medically appropriate or available to the beneficiary. As used in this section, "in-home medical care service" includes utility bills directly attributable to continuous, 24-hour operation of life-sustaining medical equipment, to the extent that federal financial participation is available.

(u) Home and community-based services approved by the United States Department of Health and Human Services may be covered to the extent that federal financial participation is available for such services under waivers granted in accordance with Section 1915 of the federal Social Security Act. The director may seek waivers for any or all home and community-based services approvable under Section 1915 of the federal Social Security Act. Coverage for such services shall be limited by the terms, conditions, and duration of the federal waivers.

The department shall submit a report, as provided in Section 28 of the 1982 Budget Act, 30 days prior to providing these services as Medi-Cal benefits. The report shall be submitted to the Joint Legislative Budget Committee and the fiscal committees and shall address the cost effectiveness of services provided pursuant to this subdivision.

(v) Comprehensive perinatal services, as provided through an agreement with a health care provider designated in Section 14134.5 and meeting the standards developed by the department pursuant to Section 14134.5, subject to utilization controls.

The department shall seek any federal waivers necessary to implement the provisions of this subdivision. The provisions for which appropriate federal waivers cannot be obtained shall not be

implemented. Provisions for which waivers are obtained or for which waivers are not required shall be implemented notwithstanding any inability to obtain federal waivers for the other provisions. No provision of this subdivision shall be implemented unless matching funds from Title XIX of the federal Social Security Act are available.

(w) Early and periodic screening, diagnosis, and treatment for any individual under 21 years of age is covered, consistent with the requirements of Title XIX of the federal Social Security Act.

(x) When a claim for treatment provided to a beneficiary includes both services which are authorized and reimbursable under this chapter, and services which are not reimbursable under this chapter, that portion of the claim for the treatment and services authorized and reimbursable under this chapter shall be payable.

SEC. 3.4. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry, physician, nurse practitioner services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered in an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered, subject to utilization controls. Nothing in this subdivision shall be construed to require prior authorization for anesthesiolgist services provided as part of an outpatient medical procedure or for portable X-ray services in an intermediate care facility or a skilled nursing facility.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, nurse practitioner services pursuant to Section 14115.6, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate

care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, and other prophylaxis treatment for children 17 years of age and under are covered.

(s) Paramedic services performed by a city, county, or special district, or pursuant to a contract with a city, county, or special district, and pursuant to a program established under Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2 of the Health and Safety Code by a paramedic certified pursuant to that article, and consisting of defibrillation and those services specified in subdivision (3) of Section 1482 of the article.

This subdivision shall be in effect only to the extent federal financial participation is available as set forth in Section 14106.6.

(t) In-home medical care services are covered when medically appropriate and subject to utilization controls, for beneficiaries who would otherwise require care for an extended period of time in an acute care hospital at a cost higher than in-home medical care services. The director shall have the authority under this section to contract with organizations qualified to provide in-home medical care services to such persons. These services may be provided to patients placed in facilities such as skilled nursing or intermediate care facilities, or to persons in shared or congregate living arrangements, if a home setting is not medically appropriate or available to the beneficiary. As used in this section, "in-home medical care service" includes utility bills directly attributable to continuous, 24-hour operation of life-sustaining medical equipment, to the extent that federal financial participation is available.

As used in this subdivision, in-home medical care services, include, but are not limited to:

(1) Level of care and cost of care evaluations.

(2) Expenses, directly attributable to home care activities, for materials.

(3) Physician fees for home visits.

(4) Expenses directly attributable to home care activities for shelter and modification to shelter.

(5) Expenses directly attributable to additional costs of special diets, including tube feeding.

(6) Medically related personal services.

(7) Home nursing education.

(8) Emergency maintenance repair.

(9) Home health agency personnel benefits which permit coverage of care during periods when regular personnel are on vacation or using sick leave.

(10) All services needed to maintain antiseptic conditions at stoma or shunt sites on the body.

(11) Emergency and nonemergency medical transportation.

(12) Medical supplies.

(13) Medical equipment, including, but not limited to, scales, gurneys, and equipment racks suitable for paralyzed patients.

(14) Utility use directly attributable to the requirements of home care activities which are in addition to normal utility use.

(15) Special drugs and medications.

(16) Home health agency supervision of visiting staff which is medically necessary, but not included in the home health agency rate.

(17) Therapy services.

(18) Household appliances and household utensil costs directly attributable to home care activities.

(19) Modification of medical equipment for home use.

(20) Training and orientation for use of life support systems, including, but not limited to, support of respiratory functions.

Beneficiaries receiving in-home medical care services are entitled to the full range of services within the Medi-Cal scope of benefits as defined by this section, subject to medical necessity and applicable utilization control. Services provided pursuant to this subdivision, which are not otherwise included in the Medi-Cal schedule of benefits, shall be available only to the extent that federal financial participation for these services is available in accordance with a home and community-based services waiver.

(u) Home and community-based services approved by the United States Department of Health and Human Services shall be covered only to the extent that federal financial participation is available for such services under waivers granted in accordance with Section 1915 of the federal Social Security Act. The director shall seek waivers for any or all home and community-based services which he or she determines are approvable under Section 1915 of the federal Social Security Act. Coverage for such services shall be limited by the terms, conditions, and duration of the federal waivers. .

The department shall submit a report, as provided in Section 28 of the 1982 Budget Act, 30 days prior to providing these services as Medi-Cal benefits. The report shall be submitted to the Joint Legislative Budget Committee and the fiscal committees and shall

address the cost effectiveness of services provided pursuant to this subdivision.

(v) Comprehensive perinatal services, as provided through an agreement with a health care provider designated in Section 14134.5 and meeting the standards developed by the department pursuant to Section 14134.5, subject to utilization controls.

The department shall seek any federal waivers necessary to implement the provisions of this subdivision. The provisions for which appropriate federal waivers cannot be obtained shall not be implemented. Provisions for which waivers are obtained or for which waivers are not required shall be implemented notwithstanding any inability to obtain federal waivers for the other provisions. No provision of this subdivision shall be implemented unless matching funds from Title XIX of the federal Social Security Act are available.

(w) When a claim for treatment provided to a beneficiary includes both services which are authorized and reimbursable under this chapter, and services which are not reimbursable under this chapter, that portion of the claim for the treatment and services authorized and reimbursable under this chapter shall be payable.

SEC. 3.5. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry, physician, nurse practitioner services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered in an inpatient or outpatient setting under conditions set

forth by the director, outpatient laboratory services, and X-ray services are covered, subject to utilization controls. Nothing in this subdivision shall be construed to require prior authorization for anesthesiologist services provided as part of an outpatient medical procedure or for portable X-ray services in an intermediate care facility or a skilled nursing facility.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. The department's utilization controls shall not require X-rays as a condition of reimbursement for fillings for children under 21 years of age. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall

allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, nurse practitioner services pursuant to Section 14115.6, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, other prophylaxis treatment for children 17 years of age and under, and dental sealants subject to appropriate utilization controls are covered.

(s) Paramedic services performed by a city, county, or special district, or pursuant to a contract with a city, county, or special district, and pursuant to a program established under Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2 of the Health and Safety Code by a paramedic certified pursuant to that article, and consisting of defibrillation and those services specified in subdivision (3) of Section 1482 of the article.

This subdivision shall be in effect only to the extent federal financial participation is available as set forth in Section 14106.6.

(t) In-home medical care services are covered when medically appropriate and subject to utilization controls, for beneficiaries who would otherwise require care for an extended period of time in an acute care hospital at a cost higher than in-home medical care services. The director shall have the authority under this section to contract with organizations qualified to provide in-home medical care services to such persons. These services may be provided to patients placed in facilities such as skilled nursing or intermediate care facilities, or to persons in shared or congregate living arrangements, if a home setting is not medically appropriate or available to the beneficiary. As used in this section, "in-home medical

care service" includes utility bills directly attributable to continuous, 24-hour operation of life-sustaining medical equipment, to the extent that federal financial participation is available.

As used in this subdivision, in-home medical care services, include, but are not limited to:

(1) Level of care and cost of care evaluations.

(2) Expenses, directly attributable to home care activities, for materials.

(3) Physician fees for home visits.

(4) Expenses directly attributable to home care activities for shelter and modification to shelter.

(5) Expenses directly attributable to additional costs of special diets, including tube feeding.

(6) Medically related personal services.

(7) Home nursing education.

(8) Emergency maintenance repair.

(9) Home health agency personnel benefits which permit coverage of care during periods when regular personnel are on vacation or using sick leave.

(10) All services needed to maintain antiseptic conditions at stoma or shunt sites on the body.

(11) Emergency and nonemergency medical transportation.

(12) Medical supplies.

(13) Medical equipment, including, but not limited to, scales, gurneys, and equipment racks suitable for paralyzed patients.

(14) Utility use directly attributable to the requirements of home care activities which are in addition to normal utility use.

(15) Special drugs and medications.

(16) Home health agency supervision of visiting staff which is medically necessary, but not included in the home health agency rate.

(17) Therapy services.

(18) Household appliances and household utensil costs directly attributable to home care activities.

(19) Modification of medical equipment for home use.

(20) Training and orientation for use of life support systems, including, but not limited to, support of respiratory functions.

Beneficiaries receiving in-home medical care services are entitled to the full range of services within the Medi-Cal scope of benefits as defined by this section, subject to medical necessity and applicable utilization control. Services provided pursuant to this subdivision, which are not otherwise included in the Medi-Cal schedule of benefits, shall be available only to the extent that federal financial participation for these services is available in accordance with a home and community-based services waiver.

(u) Home and community-based services approved by the United States Department of Health and Human Services may be covered to the extent that federal financial participation is available for such services under waivers granted in accordance with Section 1915 of

the federal Social Security Act. The director may seek waivers for any or all home and community-based services approvable under Section 1915 of the federal Social Security Act. Coverage for such services shall be limited by the terms, conditions, and duration of the federal waivers.

The department shall submit a report, as provided in Section 28 of the 1982 Budget Act, 30 days prior to providing these services as Medi-Cal benefits. The report shall be submitted to the Joint Legislative Budget Committee and the fiscal committees and shall address the cost effectiveness of services provided pursuant to this subdivision.

(v) Comprehensive perinatal services, as provided through an agreement with a health care provider designated in Section 14134.5 and meeting the standards developed by the department pursuant to Section 14134.5, subject to utilization controls.

The department shall seek any federal waivers necessary to implement the provisions of this subdivision. The provisions for which appropriate federal waivers cannot be obtained shall not be implemented. Provisions for which waivers are obtained or for which waivers are not required shall be implemented notwithstanding any inability to obtain federal waivers for the other provisions. No provision of this subdivision shall be implemented unless matching funds from Title XIX of the federal Social Security Act are available.

(w) Early and periodic screening, diagnosis, and treatment for any individual under 21 years of age is covered, consistent with the requirements of Title XIX of the federal Social Security Act.

(x) When a claim for treatment provided to a beneficiary includes both services which are authorized and reimbursable under this chapter, and services which are not reimbursable under this chapter, that portion of the claim for the treatment and services authorized and reimbursable under this chapter shall be payable.

SEC. 3.6. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry, physician, nurse practitioner services, and prescribed drugs, as described in

subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered in an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered, subject to utilization controls. Nothing in this subdivision shall be construed to require prior authorization for anesthesiologist services provided as part of an outpatient medical procedure or for portable X-ray services in an intermediate care facility or a skilled nursing facility.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. The department's utilization controls shall not require X-rays as a condition of reimbursement for fillings for children under 21 years of age. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or

brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, nurse practitioner services pursuant to Section 14115.6, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, other prophylaxis treatment for children 17 years of age and under, and dental sealants subject to appropriate utilization controls are covered.

(s) Paramedic services performed by a city, county, or special district, or pursuant to a contract with a city, county, or special district, and pursuant to a program established under Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2 of the Health and Safety Code by a paramedic certified pursuant to that article, and consisting of defibrillation and those services specified in subdivision (3) of Section 1482 of the article.

This subdivision shall be in effect only to the extent federal

financial participation is available as set forth in Section 14106.6.

(t) In-home medical care services are covered when medically appropriate and subject to utilization controls, for beneficiaries who would otherwise require care for an extended period of time in an acute care hospital at a cost higher than in-home medical care services. The director shall have the authority under this section to contract with organizations qualified to provide in-home medical care services to such persons. Such services may be provided to patients placed in facilities such as skilled nursing or intermediate care facilities, or to persons in shared or congregate living arrangements, if a home setting is not medically appropriate or available to the beneficiary. As used in this section, "in-home medical care service" includes utility bills directly attributable to continuous, 24-hour operation of life-sustaining medical equipment, to the extent that federal financial participation is available.

(u) Home and community-based services approved by the United States Department of Health and Human Services shall be covered only to the extent that federal financial participation is available for such services under waivers granted in accordance with Section 1915 of the federal Social Security Act. The director shall seek waivers for any or all home and community-based services which he or she determines are approvable under Section 1915 of the federal Social Security Act. Coverage for such services shall be limited by the terms, conditions, and duration of the federal waivers.

The department shall submit a report, as provided in Section 28 of the 1982 Budget Act, 30 days prior to providing these services as Medi-Cal benefits. The report shall be submitted to the Joint Legislative Budget Committee and the fiscal committees and shall address the cost effectiveness of services provided pursuant to this subdivision.

(v) Comprehensive perinatal services, as provided through an agreement with a health care provider designated in Section 14134.5 and meeting the standards developed by the department pursuant to Section 14134.5, subject to utilization controls.

The department shall seek any federal waivers necessary to implement the provisions of this subdivision. The provisions for which appropriate federal waivers cannot be obtained shall not be implemented. Provisions for which waivers are obtained or for which waivers are not required shall be implemented notwithstanding any inability to obtain federal waivers for the other provisions. No provision of this subdivision shall be implemented unless matching funds from Title XIX of the federal Social Security Act are available.

(w) Early and periodic screening, diagnosis, and treatment for any individual under 21 years of age is covered, consistent with the requirements of Title XIX of the federal Social Security Act.

(x) When a claim for treatment provided to a beneficiary includes both services which are authorized and reimbursable under this chapter, and services which are not reimbursable under this chapter, that portion of the claim for the treatment and services authorized

and reimbursable under this chapter shall be payable.

SEC. 3.7. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry, physician, nurse practitioner services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered in an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered, subject to utilization controls. Nothing in this subdivision shall be construed to require prior authorization for anesthesiologist services provided as part of an outpatient medical procedure or for portable X-ray services in an intermediate care facility or a skilled nursing facility.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. The department's utilization controls shall not require X-rays as a condition of reimbursement for fillings for children under 21 years of age. Notwithstanding the foregoing, the

director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, nurse practitioner services pursuant to Section 14115.6, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, other prophylaxis treatment for children 17 years of age and under, and dental sealants subject to appropriate utilization controls are covered.

(s) Paramedic services performed by a city, county, or special district, or pursuant to a contract with a city, county, or special district, and pursuant to a program established under Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2 of the Health and Safety Code by a paramedic certified pursuant to that article, and consisting of defibrillation and those services specified in subdivision (3) of Section 1482 of the article.

This subdivision shall be in effect only to the extent federal financial participation is available as set forth in Section 14106.6.

(t) In-home medical care services are covered when medically appropriate and subject to utilization controls, for beneficiaries who would otherwise require care for an extended period of time in an acute care hospital at a cost higher than in-home medical care services. The director shall have the authority under this section to contract with organizations qualified to provide in-home medical care services to such persons. These services may be provided to patients placed in facilities such as skilled nursing or intermediate care facilities, or to persons in shared or congregate living arrangements, if a home setting is not medically appropriate or available to the beneficiary. As used in this section, "in-home medical care service" includes utility bills directly attributable to continuous, 24-hour operation of life-sustaining medical equipment, to the extent that federal financial participation is available.

As used in this subdivision, in-home medical care services, include, but are not limited to:

(1) Level of care and cost of care evaluations.

(2) Expenses, directly attributable to home care activities, for materials.

(3) Physician fees for home visits.

(4) Expenses directly attributable to home care activities for shelter and modification to shelter.

(5) Expenses directly attributable to additional costs of special diets, including tube feeding.

(6) Medically related personal services.

(7) Home nursing education.

(8) Emergency maintenance repair.

(9) Home health agency personnel benefits which permit coverage of care during periods when regular personnel are on

vacation or using sick leave.

(10) All services needed to maintain antiseptic conditions at stoma or shunt sites on the body.

(11) Emergency and nonemergency medical transportation.

(12) Medical supplies.

(13) Medical equipment, including, but not limited to, scales, gurneys, and equipment racks suitable for paralyzed patients.

(14) Utility use directly attributable to the requirements of home care activities which are in addition to normal utility use.

(15) Special drugs and medications.

(16) Home health agency supervision of visiting staff which is medically necessary, but not included in the home health agency rate.

(17) Therapy services.

(18) Household appliances and household utensil costs directly attributable to home care activities.

(19) Modification of medical equipment for home use.

(20) Training and orientation for use of life support systems, including, but not limited to, support of respiratory functions.

Beneficiaries receiving in-home medical care services are entitled to the full range of services within the Medi-Cal scope of benefits as defined by this section, subject to medical necessity and applicable utilization control. Services provided pursuant to this subdivision, which are not otherwise included in the Medi-Cal schedule of benefits, shall be available only to the extent that federal financial participation for these services is available in accordance with a home and community-based services waiver.

(u) Home and community-based services approved by the United States Department of Health and Human Services shall be covered only to the extent that federal financial participation is available for such services under waivers granted in accordance with Section 1915 of the federal Social Security Act. The director shall seek waivers for any or all home and community-based services which he or she determines are approvable under Section 1915 of the federal Social Security Act. Coverage for such services shall be limited by the terms, conditions, and duration of the federal waivers.

The department shall submit a report, as provided in Section 28 of the 1982 Budget Act, 30 days prior to providing these services as Medi-Cal benefits. The report shall be submitted to the Joint Legislative Budget Committee and the fiscal committees and shall address the cost effectiveness of services provided pursuant to this subdivision.

(v) Comprehensive perinatal services, as provided through an agreement with a health care provider designated in Section 14134.5 and meeting the standards developed by the department pursuant to Section 14134.5, subject to utilization controls.

The department shall seek any federal waivers necessary to implement the provisions of this subdivision. The provisions for which appropriate federal waivers cannot be obtained shall not be

implemented. Provisions for which waivers are obtained or for which waivers are not required shall be implemented notwithstanding any inability to obtain federal waivers for the other provisions. No provision of this subdivision shall be implemented unless matching funds from Title XIX of the federal Social Security Act are available.

(w) Early and periodic screening, diagnosis, and treatment for any individual under 21 years of age is covered, consistent with the requirements of Title XIX of the federal Social Security Act.

(x) When a claim for treatment provided to a beneficiary includes both services which are authorized and reimbursable under this chapter, and services which are not reimbursable under this chapter, that portion of the claim for the treatment and services authorized and reimbursable under this chapter shall be payable.

SEC. 4. Section 14171 of the Welfare and Institutions Code is amended to read:

14171. (a) The director shall establish administrative appeal processes to review grievances or complaints arising from the findings of an audit or examination made pursuant to Sections 10722 and 14170.

(b) Different administrative appeal processes may be established by the director for grievances or complaints arising from the determinations of a tentative or final settlement based on audit or examination findings made by or on behalf of the department pursuant to Sections 10722 and 14170, except that consistent with existing practice, no administrative appeal shall be available for tentative settlement of cost reports.

(c) The administrative appeal process established by the director for final settlements, including, in the case of hospitals, the application of Title 22, California Administrative Code Sections 51536, 51537, and 51539, shall include the procedural requirements of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The impartial hearing shall be conducted by a hearing officer appointed by the director. The director may subcontract with the Office of Administrative Hearings to conduct hearings on cases involving complicated issues of fact or law, or to reduce the backlog of cases.

(d) The administrative appeal process established by the director for tentative settlements, including, in the case of hospitals, the application of Title 22 California Administrative Code Sections 51536, 51537, and 51539, shall be an informal process which, however, must guarantee a provider the right to present any grievance or complaint to the department in writing. Any subsequent hearings shall be conducted in an informal manner and shall be held at the discretion of the department.

(e) Notwithstanding subdivision (c), the administrative appeal process established by the director for institutional providers at final settlements shall commence with an informal conference with the provider, a representative of the department and the hearing officer. The hearing officer, when appropriate, may assign the

administrative appeal to an informal level of review where efforts could be made to resolve facts and issues in dispute in a fair and equitable manner, subject to the requirements of state and federal law. Nothing in this subdivision shall prohibit the provider from presenting any unresolved grievances or complaints at an impartial hearing pursuant to subdivision (c).

(f) Notwithstanding subdivision (c), the administrative appeal process established by the director for noninstitutional providers shall commence with an informal conference with the provider, a representative of the department, and the hearing officer. The informal conference shall be conducted no later than 90 days after the issuance of the first statement of account status or demand for repayment to the noninstitutional provider. The hearing officer, when appropriate, may assign the administrative appeal to an informal level of review where efforts could be made to resolve facts and issues in dispute in a fair and equitable manner, subject to the requirements of state and federal law. The review conducted at this informal level shall be completed no later than 120 days after the issuance of the first statement of account status or demand for repayment to the noninstitutional provider. Nothing in this subdivision shall prohibit the provider from presenting any unresolved grievances or complaints at an impartial hearing pursuant to subdivision (c). For noninstitutional providers, the impartial hearing shall be conducted no later than 180 days after the issuance of the first statement of account status or demand for payment to the noninstitutional provider. A final decision shall be prepared within 30 days after the impartial hearing is conducted.

(g) In the event recovery of a disallowed payment has been made by the department, a provider who prevails in an appeal of a disallowed payment shall be entitled to interest at the rate equal to the monthly average received on investments in the Pooled Money Investment Fund, commencing on the date the appeal is formally accepted by the department or the date payment is received by the department, whichever is later.

(h) Commencing 60 days after issuance of the first statement of account status or demand for repayment resulting from an audit or examination made pursuant to Sections 10722 and 14170, interest at the rate equal to the monthly average received on investments in the Pooled Money Investment Fund during the month the first statement of account status or demand for repayment was issued shall be assessed against any unrecovered overpayment due to the department.

(i) The final decision of the director shall be reviewable in accordance with the provisions of Section 1094.5 of the Code of Civil Procedure within six months of the issuance of the director's final decision.

SEC. 5. (a) Section 3.1 of this bill incorporates amendments to Section 14132 of the Welfare and Institutions Code proposed by both this bill and AB 1098. It shall only become operative if (1) both bills

are enacted and become effective January 1, 1986, (2) each bill amends Section 14132 of the Welfare and Institutions Code, and (3) both AB 1336 and AB 1172 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 1098, in which case Sections 3 and 3.2 to 3.7, inclusive, of this bill shall not become operative.

(b) Section 3.2 of this bill incorporates amendments to Section 14132 of the Welfare and Institutions Code proposed by both this bill and AB 1172. It shall only become operative if (1) both bills are enacted and become effective January 1, 1986, (2) each bill amends Section 14132 of the Welfare and Institutions Code, (3) both AB 1336 and AB 1098 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 1172 in which case Sections 3, 3.1, and 3.3 to 3.7, inclusive, of this bill shall not become operative.

(c) Section 3.3 of this bill incorporates amendments to Section 14132 of the Welfare and Institutions Code proposed by both this bill and AB 1336. It shall only become operative if (1) both bills are enacted and become effective January 1, 1986, (2) each bill amends Section 14132 of the Welfare and Institutions Code, and (3) both AB 1172 and AB 1098 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 1336, in which case Sections 3 to 3.2, inclusive, and 3.4 to 3.7, inclusive, of this bill shall not become operative.

(d) Section 3.4 of this bill incorporates amendments to Section 14132 of the Welfare and Institutions Code proposed by this bill, AB 1172, and AB 1098. It shall only become operative if (1) this bill, AB 1172, and AB 1098 are all enacted and become effective January 1, 1986, (2) each bill amends Section 14132 of the Welfare and Institutions Code, (3) AB 1336 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after both AB 1172 and AB 1098 in which case Sections 3 to 3.3, inclusive, and 3.5 to 3.7, inclusive, of this bill shall not become operative.

(e) Section 3.5 of this bill incorporates amendments to Section 14132 of the Welfare and Institutions Code proposed by this bill, AB 1098, and AB 1336. It shall only become operative if (1) this bill, AB 1098 and AB 1336 are all enacted and become effective January 1, 1986, (2) each bill amends Section 14132 of the Welfare and Institutions Code, and (3) AB 1172 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after both AB 1098 and AB 1336, in which case Sections 3 to 3.4, inclusive, 3.6, and 3.7 of this bill shall not become operative.

(f) Section 3.6 of this bill incorporates amendments to Section 14132 of the Welfare and Institutions Code proposed by both this bill, AB 1336, and AB 1172. It shall only become operative if (1) this bill, AB 1336, and AB 1172 are all enacted and become effective January 1, 1986, (2) each bill amends Section 14132 of the Welfare and Institutions Code, (3) AB 1098 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after both AB 1336 and AB 1172 in which case Sections 3 to 3.5, inclusive, and 3.7 of this bill

shall not become operative.

(g) Section 3.7 of this bill incorporates amendments to Section 14132 of the Welfare and Institutions Code proposed by this bill, AB 1172, AB 1336, and AB 1098. It shall only become operative if (1) all four bills are enacted and become effective January 1, 1986, (2) all four bills amend Section 14132 of the Welfare and Institutions Code, (3) this bill is enacted after AB 1172, AB 1336, and AB 1098, in which case Sections 3 to 3.6, inclusive, of this bill shall not become operative.

CHAPTER 1334

An act to amend Section 395 of, to add Sections 397, 398, 3503.5, and 12010 to, and to repeal and add Section 396 of, the Fish and Game Code, relating to falconry, and making an appropriation therefor.

[Approved by Governor September 30, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 395 of the Fish and Game Code is amended to read:

395. (a) The commission may adopt regulations for the possession or training, and the capture, importation, exportation, or intrastate transfer, of any bird in the orders *Falconiformes* and *Strigiformes* (birds-of-prey) used in the practice of falconry and may authorize the issuance and provide for the revocation of licenses and permits to persons for the practice of falconry.

(b) It is unlawful to capture, possess, or train any bird in the orders *Falconiformes* and *Strigiformes* (birds-of-prey) in the practice of falconry without procuring a falconry license.

SEC. 2. Section 396 of the Fish and Game Code is repealed.

SEC. 3. Section 396 is added to the Fish and Game Code, to read:

396. (a) The falconry license shall be valid for a license year beginning on March 1 and ending on the last day of February of the next succeeding calendar year. If issued after March 1 of any year, a falconry license is valid for the remainder of that license year.

(b) The fee for a falconry license shall be as follows:

(1) For the license year beginning March 1, 1986, the fee is thirty dollars ($30).

(2) For the license years beginning on or after March 1, 1987, the fee is a base fee of thirty dollars ($30) as adjusted under Section 713.

(c) Upon the filing of an affidavit showing the loss or destruction of an unexpired falconry license and the payment of a fee of eight dollars ($8), a replacement license may be issued for the remainder of the license period.

SEC. 4. Section 397 is added to the Fish and Game Code, to read:

397. (a) A fee shall be collected for each permit issued for the

importation, exportation, or intrastate transfer of a bird-of-prey.

(b) The fee for the permit shall be as follows:

(1) For the period March 1, 1986, through February 28, 1988, the fee is ten dollars ($10).

(2) On and after March 1, 1988, the fee is a base fee of ten dollars ($10) as adjusted under Section 713.

(c) The Legislature finds that the timeliness of the issuance of permits is important to the proper practice of falconry and can affect the training, breeding, and well-being of birds-of-prey. Accordingly, applications for permits shall be processed in the order received. In addition, no fee shall be imposed with respect to any permit issued more than 10 working days after receipt of a complete and properly filled in application that satisfies all requirements of applicable statutes and regulations, and any fee previously collected shall be promptly refunded. The person submitting an application for a permit that is incomplete, improperly filled in, or does not satisfy a requirement of an applicable statute or regulation shall be notified of the deficiency within 15 working days of receipt of the application.

SEC. 5. Section 398 is added to the Fish and Game Code, to read:

398. The base year for determining the inflationary index applied to the fee established by Section 396 shall be the 1984–85 fiscal year, and the base year for determining the inflationary index to be applied to the fee established by Section 397 shall be the 1985–86 fiscal year.

SEC. 6. Section 3503.5 is added to the Fish and Game Code, to read:

3503.5. It is unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by this code or any regulation adopted pursuant thereto.

SEC. 7. Section 12000 is added to the Fish and Game Code, to read:

12010. (a) Notwithstanding Section 12002, the maximum punishment for each violation of Section 3503.5 relating to a bird-of-prey designated as endangered, threatened, or fully protected is a fine of five thousand dollars ($5,000) or imprisonment in the county jail for a period of not to exceed one year, or both the fine and imprisonment.

(b) Notwithstanding Section 12002, the maximum punishment for a violation of Section 3503.5 relating to any bird-of-prey that was taken from the wild and that is subsequently reported to the department as having been bred in captivity is a fine of five thousand dollars ($5,000) or imprisonment in the county jail for a period of not to exceed one year, or both the fine and imprisonment.

SEC. 8. If this bill and Assembly Bill 617 of the 1985–86 Regular Session of the Legislature are both enacted and take effect on or before January 1, 1986, and both either amend or repeal and add Section 396 of the Fish and Game Code, then Section 396, as proposed

to be repealed and added by this bill, shall become operative, and Section 396, as proposed to be amended by Assembly Bill 617, shall not become operative, regardless of whether this bill is enacted prior to or subsequent to Assembly Bill 617.

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 1335

An act to amend Section 22658 of, and to add Section 22953 to, the Vehicle Code, relating to vehicle towing.

[Approved by Governor September 30, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. 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, if (1) there is displayed, in plain view at all entrances 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 vehicles will be removed at the owner's expense, and containing the telephone number of the local traffic law enforcement agency, and the sign may also indicate that a citation may also be issued for the violation, or (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 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) Any owner or person in lawful possession of any private property causing the removal of a vehicle parked on that property is liable for double the storage or towing charges whenever there has been a failure to post a sign as required by subdivision (a) or to state the grounds for the removal of the vehicle if requested by the legal or registered owner of the vehicle as required by subdivision (f).

(f) Any 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 (1) any damage to the vehicle in the transit and subsequent storage of the vehicle pursuant to subdivision (d) and, (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.

(h) A towing company may impose a charge of not more than twenty dollars ($20) for the towing of a vehicle at the request of the owner of private property or that owner's agent pursuant to this section if the owner of the vehicle or the owner's agent returns to the vehicle before it is removed from the private property.

(i) A charge for towing or storage, or both, of a vehicle under this section is excessive if the charge is greater than the charge which would have been made for towing or storage, or both, made at the request of a law enforcement agency under an agreement between the law enforcement agency and a towing company.

(j) Any person who charges a vehicle owner a towing or service charge at an excessive rate, as described in subdivision (i), is liable to the vehicle owner for four times the amount charged.

(k) Persons operating or in charge of any storage facility where vehicles are stored pursuant to this section shall accept a valid bank

credit card or cash for payment of towing and storage by a registered owner or the owner's agent claiming the vehicle. In addition, persons operating or in charge of the storage facility shall have sufficient moneys on the premises to accommodate, and make change in, a reasonable monetary transaction.

SEC. 2. Section 22953 is added to the Vehicle Code, to read:

22953. (a) Every owner or person in lawful possession of any private property which is held open to the public, or a discernible portion thereof, for parking of vehicles at no fee, shall not tow or remove, or cause the towing or removal, of any vehicle within one hour of the vehicle being parked.

(b) Notwithstanding subdivision (a), a vehicle may be removed immediately after being illegally parked within 15 feet of a fire hydrant, in a fire lane, or in a parking space or stall legally designated for disabled persons.

(c) Subdivision (a) does not apply to property designated for parking at an apartment complex, or to property designated for parking at a hotel or motel where the parking stalls or spaces are clearly marked for a specific room.

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 1336

An act to amend Section 14110.6 of the Welfare and Institutions Code, relating to Medi-Cal, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 14110.6 of the Welfare and Institutions Code is amended to read:

14110.6. (a) The director shall adopt regulations, establishing payment rates for skilled nursing facilities, intermediate care facilities, intermediate care facilities/developmentally disabled, and intermediate care facilities/developmentally disabled-habilitative 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, 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 and two dollars and thirty-five cents ($2.35) per patient day for intermediate care facilities/developmentally disabled-habilitative patients in facilities with 4 to 6 beds, and one dollar and ninety-eight cents ($1.98) per patient day for intermediate care facilities/developmentally disabled-habilitative patients in facilities with 7 to 15 beds, to be used for wage increases and benefits to all direct care staff. However, if either (1) the entry level wages of the lowest paid nonadministrative employee of a skilled nursing facility, intermediate care facility, intermediate care facility/developmentally disabled, or intermediate care facility/developmentally disabled-habilitative exceeds six dollars ($6) per hour as of August 1, 1984; or (2) upon the election of a county board of supervisors, for any skilled nursing facility, intermediate care facility, intermediate care facility/developmentally disabled, or intermediate care facility/developmentally disabled-habilitative, which is operated by a county, 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. These regulations shall be adopted, effective March 15, 1985, for skilled nursing facilities, intermediate care facilities, and intermediate care facilities/developmentally disabled, and by October 1, 1985, for intermediate care facilities/developmentally disabled-habilitative.

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

(1) All direct care staff, as defined in the department's regulations developed pursuant to Section 1267.7 of the Health and Safety Code, shall receive at least the prevailing federal or state minimum wage plus the average hourly wage increase pursuant to this section.

(2) For purposes of determining the amount of Medi-Cal funds to be distributed for intermediate care facilities/developmentally disabled-habilitative for employee wages and benefits, the total Medi-Cal patient days in the month of December 1984, shall be multiplied by the amount per patient day specified in subdivision (a). The new wage level shall be determined by dividing the Medi-Cal funds received by the nonovertime hours by covered direct care employees in December 1984, and adjustments to reflect employee benefit allowances.

(d) The director shall order the inspection of relevant payroll and personnel records of skilled nursing facilities, intermediate care facilities, intermediate care facilities/developmentally disabled, and intermediate care facilities/developmentally disabled-habilitative 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.

(e) 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. 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 wage revisions affecting the quality of care

rendered in California long-term health care facilities are extended to intermediate care facilities/developmentally disabled-habilitative at the earliest possible time, it is necessary that this act go into immediate effect.

CHAPTER 1337

An act to amend Sections 51005 and 51350 of the Health and Safety Code, relating to the California Housing Finance Agency, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1985. Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 51005 of the Health and Safety Code is amended to read:

51005. (a) The agency shall, within 90 days following the close of each fiscal year, submit an annual report of its activities under this division for the preceding year to the Governor, the Secretary of the Business and Transportation Agency, the Director of Housing and Community Development, the Treasurer, the Joint Legislative Budget Committee, and the Legislature. The report shall set forth a complete operating and financial statement of the agency during the concluded fiscal year. The report shall specify the number of units assisted, the distribution of units among the metropolitan, nonmetropolitan, and rural areas of the state, and shall contain a summary of statistical data relative to the incomes of households occupying assisted units, the monthly rentals charged to occupants of rental housing developments, and the sales prices of housing developments purchased during the previous fiscal year by housing sponsors who are persons or families of low or moderate income. The report shall also include a statement of accomplishment during the previous year with respect to the agency's progress, priorities, and affirmative action efforts. The agency shall specifically include in its report on affirmative action goals, statistical data on the numbers and percentages of minority sponsors, developers, contractors, subcontractors, suppliers, architects, engineers, attorneys, mortgage bankers or other lenders, insurance agents, and managing agents.

(b) The report shall also include specific information evaluating the extent to which the programs administered by the agency have attained the statutory objectives of the agency, including, but not limited to, the primary purpose of the agency in meeting the housing needs of persons and families of low or moderate income pursuant to Section 50950; the occupancy requirements for very low income households established pursuant to Sections 50951 and 51226; and the

elderly and orthopedic disability occupancy requirements established pursuant to Section 51230. The report shall include specific information on the use of surplus moneys pursuant to Section 51007 and any recommendations described in Section 51227.

(c) The agency shall cause an audit of its books and accounts with respect to its activities under this division to be made at least once during each fiscal year by an independent certified public accountant and the agency shall be subject to audit by the Department of Finance not more often than once each fiscal year.

(d) The agency shall also include in its annual report information with respect to the number of manufactured housing units assisted by the agency.

SEC. 2. 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) On the effective date of the amendments to this section enacted 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. 3. Section 51350 of the Health and Safety Code is amended to read:

51350. (a) The agency may from time to time, after action of the Housing Bond Credit Committee as provided in Section 51360, issue its 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), (g), and (h), 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) On the effective date of the amendments to this section enacted 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.

(h) On the effective date of the amendments to this section enacted 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), (f), or (g), 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. 4. Section 3 of this bill incorporates amendments to Section 51350 of the Health and Safety Code proposed by both this bill and AB 1168. 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 51350 of the Health and Safety Code, and (3) this bill is enacted after AB 1168, in which case Section 51350 of the Health and Safety Code, as amended by AB 1168, shall remain operative only until the operative date of this bill, at which time Section 3 of this bill shall become operative, and Section 2 of this bill shall not become operative.

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 additional bond authorization contained in this act is necessary to help alleviate immediately the critical shortage of housing affordable to persons and families of low or moderate income. It is also necessary that the annual report by the California Housing Finance Agency include the additional information required by that act as soon as possible. Thus, it is essential for this act to take effect immediately.

CHAPTER 1338

An act to amend Sections 25342, 25344, and 25345 of, and to add Sections 25117.7, 25123.6, 25155.5, 25155.6, 25155.7, 25155.8, and 25179 to, the Health and Safety Code, relating to hazardous waste.

[Approved by Governor September 30, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. The Legislature hereby finds and declares as follows:

(a) There are many complex organic chemicals with a high toxicity, which are not economically and technologically feasible to recycle, and for which, at the present time, there are no satisfactory disposal techniques.

(b) The purpose of this act is to create a climate in which a public and private partnership can be developed to provide environmentally sound disposal techniques, utilization techniques, or both, for modern complex chemicals.

(c) Incineration represents a state-of-the-art technology that has the capacity to transform many of these organic chemicals from

hazardous to clinically inert substances.

(d) It is the intent of the Legislature that incineration be considered by the state as a satisfactory method of treating those hazardous wastes which can be so treated, and the Legislature hereby encourages all state agencies, local entities, and private industry involved in the area of management and control of hazardous waste to place a high priority on using incineration techniques to treat those hazardous wastes which can be so treated.

(e) It is not the intention of the Legislature to discourage any search for other alternative means of disposal or treatment of chemicals with high toxicity, or to discourage use of alternative means of disposal or treatment, if these means equally protect the public health and safety.

SEC. 2. Section 25117.7 is added to the Health and Safety Code, to read:

25117.7. "Hazardous waste facility" means all contiguous land and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste.

SEC. 3. Section 25123.6 is added to the Health and Safety Code, to read:

25123.6. "Volatile organic compound" means a compound which is a volatile organic compound according to Method No. 8240 in the Environmental Protection Agency Document No. Solid Waste 846 (1982) or any equivalent, alternative method acceptable to the department.

SEC. 4. Section 25155.5 is added to the Health and Safety Code, to read:

25155.5. (a) Except as provided in subdivisions (c) and (d) and Sections 25155.6 and 25155.7, any person who, after January 1, 1988, disposes of hazardous waste, which has a heating value of more than 3,000 British Thermal Units per pound of waste material, shall dispose of those wastes by incineration, or by any other means of treatment that is effective and equally protective of the environment and has been authorized by the department as part of a hazardous waste facilities permit issued pursuant to Section 25200. The heating value of the hazardous waste shall be determined without considering any dilution which may occur that is not a normal part of a manufacturing process and shall be determined by tests prescribed by the American Society of Testing and Materials.

(b) Except as provided in subdivisions (c) and (d) and Sections 25155.6 and 25155.7, any person who, after January 1, 1990, disposes of hazardous waste which contains volatile organic compounds in concentrations of more than the percentage by weight determined by the department pursuant to subdivision (e), shall dispose of these hazardous wastes by incineration, or by any other means of treatment that is effective and equally protective of the environment and has been authorized by the department as part of a hazardous waste facilities permit issued pursuant to Section 25200. The concentrations of the volatile organic compounds in the waste shall

be determined without considering any dilution which may occur, unless the dilution is a normal part of a manufacturing process.

(c) If the department determines that adequate incineration or treatment capacity does not exist within the state, a person disposing of the hazardous waste specified in either subdivision (a) or (b) is exempt from the requirements of either subdivision (a) or (b), as the case may be, until the department determines that adequate incineration or treatment capacity is available.

(d) This section does not require the incineration of any hazardous waste which is economically and technologically feasible to recycle, including that waste which the producer reclaims or recycles onsite, as determined by the department pursuant to Section 25175, if the waste is, in fact, reclaimed or recycled.

(e) On or before January 1, 1987, the department shall determine the percentage of volatile organic compounds above which incineration or treatment is required pursuant to subdivision (b). The percentage shall be not less than 1 percent or more than 8 percent. In making this determination, the department shall consider (1) the reliability and availability of testing procedures for determining the volatile organic compound content of waste materials and (2) the technical and economic feasibility of incineration or other means of treatment authorized by subdivision (b). Before making a final determination, the department shall consult with, and consider the views of, the State Air Resources Board, air pollution control districts and air quality management districts, waste generators, persons who provide incineration or other authorized treatment technology or facilities, and the environmental community.

SEC. 5. Section 25155.6 is added to the Health and Safety Code, to read:

25155.6. All of the following hazardous wastes are exempt from Section 25155.5:

(a) Drilling fluids, produced waters, and other fluids or materials which are brought to the surface and then reinjected in conjunction with the exploration, development, or production of crude oil, geothermal energy, or natural gas.

(b) Mining overburden, as defined by Section 2732 of the Public Resources Code, which is deposited within a mining permit area pursuant to a permit issued pursuant to the Surface Mining and Reclamation Act of 1975 (Chapter 9 (commencing with Section 2710) of Division 2 of the Public Resources Code).

(c) Contaminated soil from the cleanup of any release of hazardous substances, as defined by Article 2 (commencing with Section 25310) of Chapter 6.8, if all the following conditions are met:

(1) The disposal method for the contaminated soil has been approved by the appropriate responsible state agency as part of the cleanup plan for that particular release.

(2) The department determines that, due to the nature of the release, incineration or any other treatment process is not

practicable or feasible.

(d) Contaminated soil from any remedial or removal of any release of hazardous substances not required to be reported.

(e) Any waste which meets a pretreatment standard established by the Environmental Protection Agency pursuant to Section 6924(m) of Title 42 of the United States Code.

(f) Hazardous waste which meets the requirements of subdivision (a) or (b) of Section 25155.5, but which cannot either be treated or incinerated, as determined by the department.

SEC. 6. Section 25155.7 is added to the Health and Safety Code, to read:

25155.7. A hazardous waste producer may request the department, in writing, for an emergency variance to exempt a particular hazardous waste from the incineration or treatment requirement of subdivision (a) of Section 25155.5, and to permit the land disposal of that hazardous waste, if the incineration facility used by that producer, either onsite or offsite, has an unplanned shutdown, and if both of the following apply:

(a) There are no other incineration or treatment facilities of adequate capacity available in the state.

(b) The producer's facility and the recyling or treatment facility have insufficient capacity to store the particular hazardous waste for the expected duration of the shutdown.

SEC. 7. Section 25155.8 is added to the Health and Safety Code, to read:

25155.8. (a) The operator of a landfill, land farm, or surface impoundment, which is used for disposing or treating hazardous waste which contains volatile organic compounds in concentrations of more than 1 percent by weight, shall do both of the following:

(1) Monitor air emissions from the facility and report the monitoring results semiannually to the department.

(2) Unless the department adopts regulations specifying monitoring procedures and requirements, comply with the regulations adopted by the Environmental Protection Agency pursuant to Section 6924(n) of Title 42 of the United States Code.

(b) If the operator makes the reports specified in paragraph (1) of subdivision (a) and complies with the federal regulations specified in paragraph (2) of subdivision (a), the operator is in compliance with subdivision (a).

SEC. 8. Section 25179 is added to the Health and Safety Code, to read:

25179. (a) A city or county or an agency or entity established by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code may enter into a contract or contracts with a business entity for the purpose of planning, financing, constructing, and operating an offsite hazardous waste facility to transfer or treat hazardous waste.

(b) The authority granted by this section to a city, county, agency, or entity is in addition to any other authority granted by law.

(c) For purposes of this section, "business entity" means any private organization or enterprise operated for profit, including, but not limited to, a proprietorship, partnership, firm, business, trust, joint venture, syndicate, corporation, or association.

SEC. 9. Section 25342 of the Health and Safety Code is amended to read:

25342. On or before March 1 of each year, every person who submitted for disposal offsite, or who disposed of onsite, more than 500 pounds of hazardous waste in the state during the preceding calendar year shall report to the board the following information:

(a) The total amount of hazardous waste, as defined by Section 25117, the federal regulation of which has been suspended under the Solid Waste Disposal Act (42 U.S.C. Sec. 6901 et seq.) by act of Congress, which that person has disposed of, or submitted for disposal, in the state, plus the total amount of hazardous waste, which that person has transferred to a surface impoundment in the state for purposes of reducing the water content of the waste and material by evaporation, plus the total amount of hazardous waste disposed of into an injection well or landfarm, as defined in subdivision (g) of Section 25345, exclusive of that waste specified in subdivisions (d) and (e).

(b) The total amount of hazardous waste disposed of, or submitted for disposal, in the state by that person, exclusive of that waste specified in subdivisions (a), (c), (d), and (e).

(c) The total amount of extremely hazardous waste disposed of, or submitted for disposal, in the state by that person, exclusive of that waste specified in subdivisions (a), (b), (d), and (e).

(d) The total amount of hazardous or extremely hazardous waste that person has disposed of, or submitted for disposal, in the state from the extraction, beneficiation, and processing of ores and minerals, including phosphate rock and overburden from mining of uranium ore.

(e) The total amount of hazardous waste that person has disposed of, or submitted for disposal, in the state that is a solid hazardous waste residue resulting from incineration.

SEC. 10. Section 25344 of the Health and Safety Code is amended to read:

25344. On April 15 of each year, the board shall certify to the Governor all of the following:

(a) The total amount of waste specified by all persons pursuant to subdivision (a) of Section 25342.

(b) The total amount of waste specified by all persons pursuant to subdivision (b) of Section 25342.

(c) The total amount of waste specified by all persons pursuant to subdivision (c) of Section 25342.

(d) The total amount of waste specified by all persons pursuant to subdivision (d) of Section 25342.

(e) The total amount of waste specified by all persons pursuant to subdivision (e) of Section 25342.

(f) The total amount of taxes to be collected pursuant to this chapter.

(g) The total amount of taxes in the state account subject to the rebate specified in Section 25347.2.

SEC. 11. Section 25345 of the Health and Safety Code is amended to read:

25345. (a) There is hereby imposed a tax, payable annually, and to be collected by the board, upon each ton or fraction thereof, of waste and material specified in Section 25342, according to the formula specified in this section. The board shall set the base tax rate upon the waste and material specified in Section 25342 in accordance with the following formula:

$$\text{Base tax rate} = \frac{15{,}000{,}000}{(0.15W_1 + W_2 + 2W_3 + 0.01W_4 + 0.05W_5)}$$

where:

(1) W_1 is the total amount in tons of waste and material specified in subdivision (a) of Section 25344.

(2) W_2 is the total amount in tons of waste specified in subdivision (b) of Section 25344.

(3) W_3 is the total amount in tons of waste specified in subdivision (c) of Section 25344.

(4) W_4 is the total amount in tons of waste specified in subdivision (d) of Section 25344.

(5) W_5 is the total amount in tons of waste specified in subdivision (e) of Section 25344.

(b) On or before May 1 of each year, using the formula specified in subdivision (a), the board shall determine the base tax rate for the current year.

(c) The tax imposed upon each person subject to Section 25342 shall be assessed according to the following formula:

$$\text{Tax} = (\text{base tax rate}) \times (0.15\,P_1 + P_2 + 2P_3 + 0.01P_4 + 0.05P_5)$$

where:

(1) "Base tax rate" equals the figure determined pursuant to subdivision (a).

(2) P_1 is the amount in tons of waste and material specified by the person pursuant to subdivision (a) of Section 25342.

(3) P_2 is the amount in tons of waste specified by the person pursuant to subdivision (b) of Section 25342.

(4) P_3 is the total amount in tons of waste specified by the person pursuant to subdivision (c) of Section 25342.

(5) P_4 is the total amount in tons of waste specified by

the person pursuant to subdivision (d) of Section 25342.

(6) P_5 is the total amount in tons of waste specified by the person pursuant to subdivision (e) of Section 25342.

(d) On or before May 1 of each year, the board shall send to each person subject to Section 25342 a notice of assessment.

(e) On or before July 1 of each year, each person subject to Section 25342 shall pay to the board the amount of the assessment as stated in the notice. The tax under this chapter shall not be imposed again on hazardous waste or extremely hazardous waste if the waste, or any portion thereof, is removed subsequently to another place for disposal and if the person has paid the amount of assessment for the waste in accordance with this section before the removal thereof.

(f) Notwithstanding any other provision of this section, hazardous wastes disposed of into an injection well during the 1981 calendar year shall be subject to a tax rate that does not exceed 26.4 percent of the base tax rate, as determined in subdivision (a), as it read on January 1, 1984, per ton or fraction thereof.

(g) For purposes of this article, the following definitions apply:

(1) "Injection well" means a bored, drilled, or driven shaft, whose depth is greater than the largest surface dimension, and which is used to inject hazardous waste into an underground formation. Injection well does not mean any well located in class I or a class II–I disposal site, as defined in Sections 2510 and 2511 of Title 23 of the California Administrative Code, on September 25, 1981.

(2) "Formation" means a body of rock characterized by a degree of lithologic homogeneity which is prevailingly, but not necessarily, tabular and is mappable on the earth's surface or traceable in the subsurface.

(3) "Landfarm" means a waste management technique, conducted within a hazardous waste facility which has received a hazardous waste facilities permit or has obtained interim status pursuant to Article 9 (commencing with Section 25200) of Chapter 6.5, or pursuant to Section 6925 of Title 42 of the United States Code. This waste management technique consists of applying oily wastes, biodegradable wastes, or both wastes onto land and incorporating them into the surface of the soil and, by controlling critical parameters of alkalinity and acidity, moisture content, and soil texture, enhancing the aerobic biodegradation of the waste into carbon dioxide, water, and humus. Landfarming is a managed process which changes the physical, chemical, or biological composition of hydrocarbon wastes, and it

does not include any other land disposal practices, including, but not limited to, landfilling or codisposal.

(h) The taxes assessed for the 1985 calendar year and due July 1, 1986, and the taxes assessed in all subsequent years, shall be determined pursuant to this section.

SEC. 12. 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 1339

An act to amend Sections 13352, 23161, 23166, and 23181 of, and to amend, repeal, and add Section 23171 of, the Vehicle Code, relating to driving offenses.

[Approved by Governor September 30, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 13352 of the Vehicle Code is amended to read:

13352. (a) The department shall immediately suspend or revoke 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 a violation of Section 23152 or 23153 or subdivision (a) of Section 23109, or upon receipt of a report of a judge of the juvenile court, a juvenile traffic hearing officer, or a referee of a juvenile court showing that the person has been found to have committed a violation of Section 23152 or 23153 or subdivision (a) of Section 23109. For purposes of this section, suspension or revocation shall be as follows:

(1) Upon a conviction or finding of a violation of Section 23152 punishable under Section 23160, the privilege shall be suspended for a period of six months if the court orders the department to suspend the privilege, or if the court does not grant probation, or if the offense occurred in a vehicle requiring a driver with a class 1 or class 2 driver's license or with a certificate specified in Section 12804.1. However, where (A) the driving privilege is required to be suspended by this paragraph due to the violation having occurred in vehicles requiring a class 1 or class 2 driver's license, and (B) the court grants probation and imposes the condition specified in

subdivision (b) of Section 23161, the department shall issue the person a class 3 driver's license restricted in the same manner and subject to the same conditions as specified in subdivision (e) of Section 13352.5. The department shall issue the restricted license upon receipt of an abstract of record from the court pursuant to Section 1803 certifying that the court has granted probation to the person on conditions which include the condition specified in subdivision (b) of Section 23161.

(2) Upon a conviction or finding of a violation of Section 23153 punishable under Section 23180, the privilege shall be suspended for a period of one year. The privilege shall not be reinstated until the person gives proof of ability to respond in damages as defined in Section 16430.

(3) Except as provided in Section 13352.5, upon a conviction or finding of a violation of Section 23152 punishable under Section 23165, the privilege shall be suspended for 18 months. The privilege shall not be reinstated until the person gives proof of ability to respond in damages as defined in Section 16430.

(4) Except as provided in Section 13352.5, upon a conviction or finding of a violation of Section 23153 punishable under Section 23185, the privilege shall be revoked for a period of three years. The privilege shall not be reinstated until evidence satisfactory to the department establishes that no grounds exist which would authorize the refusal to issue a license and until the person gives proof of ability to respond in damages as defined in Section 16430.

(5) Upon a conviction or finding of a violation of Section 23152 punishable under Section 23170, the privilege shall be revoked for a period of three years. The privilege shall not be reinstated until the person files proof of ability to respond in damages as defined in Section 16430 and gives proof satisfactory to the department of successful completion of a one-year program approved pursuant to Chapter 9 (commencing with Section 11837) of Part 2 of Division 10.5 of the Health and Safety Code. The court shall advise the person at the time of sentencing that completion of a one-year program is required in order to become eligible for a California driver's license. Any individual convicted of a violation of Section 23152 punishable under Section 23170 may also, at any time after sentencing, petition the court for referral to a one-year program approved pursuant to Chapter 9 (commencing with Section 11837) of Part 2 of Division 10.5 of the Health and Safety Code. Unless good cause is shown, the court shall order the referral.

(6) Upon a conviction or finding of a violation of Section 23153 punishable under Section 23190, the privilege shall be revoked for a period of five years. The privilege shall not be reinstated until evidence satisfactory to the department establishes that no grounds exist which would authorize the refusal to issue a license and until the person gives proof of ability to respond in damages as defined in Section 16430 and gives proof satisfactory to the department of successful completion of a one-year program approved pursuant to

Chapter 9 (commencing with Section 11837) of Part 2 of Division 10.5 of the Health and Safety Code. The court shall advise the person at the time of sentencing that completion of a one-year program is required in order to become eligible for a California driver's license. Any individual convicted of a violation of Section 23153 punishable under Section 23190 may also, at any time after sentencing, petition the court for referral to a one-year program approved pursuant to Chapter 9 (commencing with Section 11837) of Part 2 of Division 10.5 of the Health and Safety Code. Unless good cause is shown, the court shall order the referral.

(7) Upon a conviction or finding of a violation of Section 23152 punishable under Section 23175, the privilege shall be revoked for a period of four years. The privilege shall not be reinstated until evidence satisfactory to the department establishes that no grounds exist which would authorize the refusal to issue a license and until the person gives proof of ability to respond in damages as defined in Section 16430 and gives proof satisfactory to the department of successful completion of a one-year program approved pursuant to Chapter 9 (commencing with Section 11837) of Part 2 of Division 10.5 of the Health and Safety Code. The court shall advise the person at the time of sentencing that completion of a one-year program is required in order to become eligible for a California driver's license. Any individual convicted of a violation of Section 23153 punishable under Section 23175 may also, at any time after sentencing, petition the court for referral to a one-year program approved pursuant to Chapter 9 (commencing with Section 11837) of Part 2 of Division 10.5 of the Health and Safety Code. Unless good cause is shown, the court shall order the referral.

(8) Upon a conviction or finding of a violation of subdivision (a) of Section 23109 punishable under subdivision (e) of that section, the privilege shall be suspended for a period of 90 days to six months, if and as ordered by the court.

(9) Upon a conviction or finding of a violation of subdivision (a) of Section 23109 punishable under subdivision (f) of that section, the privilege shall be suspended for a period of six months, if the court orders the department to suspend the privilege. The privilege shall not be reinstated until the person gives proof of ability to respond in damages as defined in Section 16430.

(b) For the purpose of paragraphs (2) to (9), inclusive, of subdivision (a), the finding of the juvenile court judge, the juvenile traffic hearing officer, or the referee of a juvenile court of a commission of a violation of Section 23152 or 23153 or subdivision (a) of Section 23109, as specified in subdivision (a) of this section, is a conviction.

(c) Each judge of a juvenile court, juvenile traffic hearing officer, or referee of a juvenile court shall immediately report the findings specified in subdivision (a) to the department.

(d) A conviction of an offense in any state, territory, or possession of the United States, the District of Columbia, the Commonwealth

of Puerto Rico, or the Dominion of Canada which, if committed in this state, would be a violation of Section 23152, is a conviction of Section 23152 for purposes of this section, and such a conviction of an offense which, if committed in this state, would be a violation of Section 23153, is a conviction of Section 23153 for purposes of this section. The department shall suspend or revoke the privilege to operate a motor vehicle pursuant to this section upon receiving notice of such a conviction.

SEC. 2. Section 23161 of the Vehicle Code is amended to read:

23161. (a) Except as provided in subdivision (f), if the court grants probation to any person punished under Section 23160, in addition to the provisions of Section 23206 and any other terms and conditions imposed by the court, the court shall impose as a condition of probation that the person be subject to one of the following:

(1) Be confined in the county jail for at least 48 hours but not more than six months and pay a fine of at least three hundred ninety dollars ($390) but not more than one thousand dollars ($1,000). The court may order the Department of Motor Vehicles to suspend the privilege to operate a motor vehicle pursuant to paragraph (1) of subdivision (a) of Section 13352 when this condition of probation is imposed.

(2) Pay a fine of at least three hundred ninety dollars ($390) but not more than one thousand dollars ($1,000) and have the privilege to operate a motor vehicle restricted for 90 days to necessary travel to and from that person's place of employment and to and from the program described in subdivision (b) and, if driving a motor vehicle is necessary to perform the duties of the person's employment, restricted to driving in that person's scope of employment.

(b) In any county where the board of supervisors has approved such a program or programs, the court shall also impose as a condition of probation that the driver shall participate in, and successfully complete, an alcohol or drug education program, or both of these programs, as designated by the court.

(c) Each county which has approved an alcohol or drug education program or programs shall make provision for persons who cannot afford the program fee, in order to enable those persons to participate. The county may require that the program report the failure of a person referred to the program to enroll in the program to the referring court.

(d) In order to assure effectiveness of the alcohol or drug education program, the county shall provide, as appropriate, services to ethnic minorities, women, youth, or any other group that has particular needs related to the program.

(e) (1) Any person required to successfully complete an alcohol or drug education program as a condition of probation shall enroll in the program and, except when enrollment is required in a program that is required to report failures to enroll to the court, shall furnish proof of the enrollment to the court within the period of time and in the manner specified by the court. The person shall also

participate in and successfully complete the program and, excepting when the person is required to enroll in a program that is required to report unsuccessful program completion to the court, shall furnish proof of successful completion within the period of time and in the manner specified by the court. The court shall revoke the person's probation pursuant to Section 23207, except for good cause shown, for the failure to comply with this paragraph.

(2) An alcohol or drug education program shall report to the court within the period of time and in the manner specified by the court any person who fails to successfully complete the program.

(3) The court, in establishing the reporting requirements in this subdivision, shall consult with the county alcohol program administrator.

(f) Notwithstanding subdivision (a), if the offense occurred in a vehicle requiring a driver with a class 1 or class 2 driver's license or with a certificate issued pursuant to Section 12804.1, the court shall upon conviction order the department to suspend the driver's privilege pursuant to paragraph (1) of subdivision (a) of Section 13352.

SEC. 3. Section 23166 of the Vehicle Code is amended to read:

23166. If the court grants probation to any person punished under Section 23165, in addition to the provisions of Section 23206 and any other terms and conditions imposed by the court, the court shall impose as conditions of probation that the person be subject to all of the provisions of either subdivision (a) or (b), as follows:

(a) Be confined in the county jail for at least 10 days but not more than one year and pay a fine of at least three hundred ninety dollars ($390) but not more than one thousand dollars ($1,000). The person's privilege to operate a motor vehicle shall be suspended by the Department of Motor Vehicles pursuant to paragraph (3) of subdivision (a) of Section 13352.

(b) All of the following:

(1) Be confined in the county jail for at least 48 hours but not more than one year.

(2) Pay a fine of at least three hundred ninety dollars ($390) but not more than one thousand dollars ($1,000).

(3) Have the privilege to operate a motor vehicle be restricted pursuant to Section 13352.5 for one year to necessary travel to and from that person's place of employment and to and from the treatment program described in paragraph (4) and, if driving a motor vehicle is necessary to perform the duties of the person's employment, restricted to driving in that person's scope of employment. The Department of Motor Vehicles shall not suspend the person's privilege to operate a motor vehicle under Section 13352, as provided in Section 13352.5, unless the offense occurred in a vehicle requiring a driver with a class 1 or class 2 driver's license or with a certificate specified in Section 12804.1.

(4) Participate, for at least one year and in a manner satisfactory to the court, in a program approved pursuant to Chapter 9

(commencing with Section 11837) of Part 2 of Division 10.5 of the Health and Safety Code, as designated by the court. The program shall provide for persons who cannot afford the program fee pursuant to paragraph (2) of subdivision (a) of Section 11837.4 of the Health and Safety Code in order to enable those persons to participate.

SEC. 4. Section 23171 of the Vehicle Code is amended to read:

23171. (a) (1) If the court grants probation to any person punished under Section 23170, in addition to the provisions of Section 23206 and any other terms and conditions imposed by the court, the court shall impose as conditions of probation that the person be confined in the county jail for at least 120 days but not more than one year and pay a fine of at least three hundred ninety dollars ($390) but not more than one thousand dollars ($1,000). The person's privilege to operate a motor vehicle shall be revoked by the Department of Motor Vehicles pursuant to paragraph (5) of subdivision (a) of Section 13352.

(2) In those counties participating in the pilot program established pursuant to Article 3 (commencing with Section 23230), the court shall require that at least 30 days of the term of imprisonment prescribed under this subdivision be served in the county jail, but may in its discretion order that a portion or all of the rest of the term be served by participation in a treatment program in an alcohol rehabilitation facility approved pursuant to Article 3 (commencing with Section 23230), as designated by the court. The person shall not be ordered to the alcohol rehabilitation facility for less than 30 days, and the person shall pay the costs of that treatment program commensurate with the person's ability to pay. A violation of the terms of the program or leaving the alcohol rehabilitation facility without authorization is a violation of probation.

(b) In addition to the provisions of Section 23206 and subdivision (a), if the court grants probation to any person punished under Section 23170 who has not previously successfully completed a treatment program pursuant to paragraph (4) of subdivision (b) of Section 23166 or paragraph (4) of subdivision (b) of Section 23186, the court shall impose as a condition of probation that the person participate, for a least one year and in a manner satisfactory to the court, in a program approved pursuant to Chapter 9 (commencing with Section 11837) of Part 2 of Division 10.5 of the Health and Safety Code, as designated by the court. The program shall provide for persons who cannot afford the program fee pursuant to paragraph (2) of subdivision (a) of Section 11837.4 of the Health and Safety Code in order to enable those persons to participate. Under no circumstances shall the additional condition of probation required pursuant to this subdivision be construed as a basis for reducing any other probation requirement in this section or Section 23206 or for avoiding the mandatory license revocation provisions of paragraph (5) of subdivision (a) of Section 13352.

(c) 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. 5. Section 23171 is added to the Vehicle Code, to read:

23171. (a) If the court grants probation to any person punished under Section 23170, in addition to the provisions of Section 23206 and any other terms and conditions imposed by the court, the court shall impose as conditions of probation that the person be confined in the county jail for at least 120 days but not more than one year and pay a fine of at least three hundred ninety dollars ($390) but not more than one thousand dollars ($1,000). The person's privilege to operate a motor vehicle shall be revoked by the Department of Motor Vehicles pursuant to paragraph (5) of subdivision (a) of Section 13352.

(b) In addition to the provisions of Section 23206 and subdivision (a), if the court grants probation to any person punished under Section 23170 who has not previously successfully completed a treatment program pursuant to paragraph (4) of subdivision (b) of Section 23166 or paragraph (4) of subdivision (b) of Section 23186, the court shall impose as a condition of probation that the person participate, for a least one year and in a manner satisfactory to the court, in a program approved pursuant to Chapter 9 (commencing with Section 11837) of Part 2 of Division 10.5 of the Health and Safety Code, as designated by the court. The program shall provide for persons who cannot afford the program fee pursuant to paragraph (2) of subdivision (a) of Section 11837.4 of the Health and Safety Code in order to enable those persons to participate. Under no circumstances shall the additional condition of probation required pursuant to this subdivision be construed as a basis for reducing any other probation requirement in this section or Section 23206 or for avoiding the mandatory license revocation provisions of paragraph (5) of subdivision (a) of Section 13352.

(c) This section shall become operative on January 1, 1988.

SEC. 6. Section 23181 of the Vehicle Code is amended to read:

23181. (a) If the court grants probation to any person punished under Section 23180, in addition to the provisions of Section 23206 and any other terms and conditions imposed by the court, the court shall impose as a condition of probation that the person be confined in the county jail for at least five days but not more than one year and pay a fine of at least three hundred ninety dollars ($390) but not more than one thousand dollars ($1,000). The person's privilege to operate a motor vehicle shall be suspended by the Department of Motor Vehicles pursuant to paragraph (2) of subdivision (a) of Section 13352.

(b) In any county where the county alcohol program administrator has certified, and the board of supervisors has approved, such a program or programs, the court shall also impose as a condition of probation that the driver shall participate in, and successfully complete, an alcohol or drug education program, as designated by the court.

(c) Each county which has approved and certified an alcohol or drug education program or programs shall make provision for persons who cannot afford the program fee, in order to enable those persons to participate. The county may require that the program report the failure of a person referred to the program to enroll in the program to the referring court.

(d) In order to assure effectiveness of the alcohol or drug education program, the county shall provide, as appropriate, services to ethnic minorities, women, youth, or any other group that has particular needs related to the program.

(e) (1) Any person required to successfully complete an alcohol or drug education program as a condition of probation shall enroll in the program and, except when enrollment is required in a program that is required to report failures to enroll to the court, shall furnish proof of the enrollment to the court within the period of time and in the manner specified by the court. The person shall also participate in and successfully complete the program, excepting when the person is required to enroll in a program that is required to report unsuccessful program completion to the court, shall furnish proof of successful completion within the period of time and in the manner specified by the court. The court shall revoke the person's probation pursuant to Section 23207, except for good cause shown, for the failure to comply with this paragraph.

(2) An alcohol or drug education program shall report to the court within the period of time and in the manner specified by the court any person who fails to successfully complete the program.

(3) The court, in establishing the reporting requirements in this subdivision, shall consult with the county alcohol program administrator.

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 1340

An act to amend Sections 22816.6, 22822, and 22954 of the Government Code, relating to state employees' health and dental benefits, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 22816.6 of the Government Code is amended to read:

22816.6. Any permanent intermittent employee enrolled in a health benefits plan under this part who would lose health benefits coverage due to a reduction in working hours shall be entitled to have his or her coverage and the coverage of any family members continued until July 31, 1987, upon assuming payment of the contributions otherwise required of the employer on account of the enrollment.

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 22822 of the Government Code is amended to read:

22822. Notwithstanding any other provision of this chapter, with respect to state officers and employees, a permanent intermittent employee, who has an appointment of more than six months and works at least half-time, shall be eligible to enroll or register not to enroll for health benefits within 60 calendar days after having been credited with a minimum of 480 paid hours within one of two designated 6-month periods in a calendar year. To continue benefits, a permanent intermittent employee must be credited with a minimum of 480 paid hours in a designated 6-month period or 960 paid hours in two consecutive designated 6-month periods. For the purposes of this section, the designated 6-month periods are January 1 through June 30 and July 1 through December 31 of each calendar year.

SEC. 3. Section 22954 of the Government Code is amended to read:

22954. Any permanent intermittent employee enrolled in a dental care plan under this part who would lose dental care benefits coverage due to a reduction in working hours shall be entitled to have his or her coverage and the coverage of any family members continued until July 31, 1987, upon assuming payment of the contributions otherwise required of the employer on account of the enrollment.

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. 4. The Legislature hereby finds and declares: that Section 22822 of the Government Code, as added by Chapter 1320 of the Statutes of 1984, was the vehicle utilized to implement the memoranda of understanding entered into by the Governor and the various employee organizations representing several groups of state employees; that all parties thereto agree that their intent was to

make Section 22822 applicable only to permanent intermittent state employees; that, however, the term "permanent" was inadvertently omitted from that section; and that this act corrects that inadvertent omission.

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 an inadvertent omission from Section 22822 of the Government Code (Ch. 1320, Stats. 1984, effective September 24, 1984) may be corrected at the earliest possible time, and to ensure the continued extension, on or after July 1, 1985, of health and dental benefits granted by Chapter 1214 of the Statutes of 1984 for permanent intermittent employees who will otherwise lose their benefits coverage due to a reduction in working hours it is necessary that this act take effect immediately.

CHAPTER 1341

An act to amend Sections 356, 358, and 358.1 of, and to add Section 356.5 to, the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor September 30, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 356 of the Welfare and Institutions Code is amended to read:

356. After hearing the evidence, the court shall make a finding, noted in the minutes of the court, whether or not the minor is a person described by Section 300. If it finds that the minor is not such a person, it shall order that the petition be dismissed and the minor be discharged from any detention or restriction theretofore ordered. If the court finds that the minor is such a person, it shall make and enter its findings and order accordingly and shall then proceed to hear evidence on the question of the proper disposition of the minor. Prior to making a finding required under this section, the court may continue the hearing, if necessary, to receive the social study of the probation officer and any study or evaluation made by a child advocate appointed by the court, or to receive other evidence on its own motion, the motion of a parent or guardian, or the motion of the minor as follows:

(a) If the minor is detained during the continuance, the continuance shall not exceed 10 judicial days.

(b) If the minor is not detained during the continuance, the continuance shall not exceed 30 days after the date of filing the

petition. However, the court may, for cause, continue the hearing for an additional 15 days.

(c) The court may make such order for detention of the minor or for the minor's release from detention, during the period of the continuance, as is appropriate.

If the court finds that the minor is a person described by subdivision (d) of Section 300, it shall make and enter a finding as to whether or not the minor has been a victim of severe physical abuse.

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.

SEC. 2. Section 356.5 is added to the Welfare and Institutions Code, to read:

356.5. A child advocate appointed by the court to represent the interests of a dependent child in a proceeding under this chapter shall have the same duties and responsibilities as a guardian ad litem and shall be trained by and function under the auspices of a court appointed special advocate guardian ad litem program, formed and operating under the guidelines established by the National Court Appointed Special Advocate Association.

SEC 3. Section 358 of the Welfare and Institutions Code is amended to read:

358. (a) After finding that a minor is a person described in Section 300, the court shall hear evidence on the question of the proper disposition to be made of the minor. The court shall receive in evidence the social study of the minor made by the probation officer, any study or evaluation made by a child advocate appointed by the court, and such other relevant and material evidence as may be offered. In any judgment and order of disposition, the court shall specifically state that the social study made by the probation officer and the study or evaluation made by the child advocate appointed by the court, if there be any, has been read and considered by the court in arriving at its judgment and order of disposition.

(b) If the court finds that a minor is described by subdivision (e) of Section 300, the court shall conduct the dispositional proceeding described under subdivision (a) pursuant to Section 366.25.

SEC. 4. Section 358.1 of the Welfare and Institutions Code is amended to read:

358.1. Each social study or evaluation made by a probation officer or child advocate appointed by the court, required to be received in evidence pursuant to Section 358 shall include, but not be limited to, a factual discussion of each of the following subjects:

(a) Whether the county welfare department or probation officer

has considered child protective services, as defined in Chapter 5 (commencing with Section 16500) of Part 4 of Division 9, as a possible solution to the problems at hand, and has offered these services to qualified parents if appropriate under the circumstances.

(b) What plan, if any, for return of the child is recommended to the court by the county welfare department or probation officer.

(c) Whether the best interests of the minor will be served by granting reasonable visitation rights with the minor to his or her grandparents, in order to maintain and strengthen the minor's family relationships.

(d) Whether the subject child appears to be a person who is eligible to be considered for further court action to free the child from parental custody and control pursuant to Section 232 of the Civil Code.

CHAPTER 1342

An act to amend Sections 51283 and 65570 of, and to add Section 51283.5 to, the Government Code, relating to planning.

[Approved by Governor September 30, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 51283 of the Government Code is amended to read:

51283. (a) Prior to any action by the board or council giving tentative approval to the cancellation of any contract, the county assessor of the county in which the land is located shall determine the full cash value of the land as though it were free of the contractual restriction. The assessor shall certify to the board or council the cancellation valuation of the land for the purpose of determining the cancellation fee.

(b) Prior to giving tentative approval to the cancellation of any contract, the board or council shall determine and certify to the county auditor the amount of the cancellation fee which the landowner shall pay the county treasurer as deferred taxes upon cancellation. That fee shall be an amount equal to 12½ percent of the cancellation valuation of the property.

(c) If they find that it is in the public interest to do so, the board or council may waive any payment or any portion of a payment by the landowner, or may extend the time for making the payment or a portion of the payment contingent upon the future use made of the land and its economic return to the landowner for a period of time not to exceed the unexpired period of the contract, had it not been cancelled, if all of the following occur:

(1) The cancellation is caused by an involuntary transfer or

change in the use which may be made of the land and the land is not immediately suitable, nor will be immediately used, for a purpose which produces a greater economic return to the owner.

(2) The board or council has determined it is in the best interests of the program to conserve agricultural land use that the payment be either deferred or not required.

(3) The waiver or extension of time is approved by the Secretary of the Resources Agency. The secretary shall approve a waiver or extension of time if the secretary finds that the granting of the waiver or extension of time by the local agency is consistent with the policies of this chapter and that the local agency complied with this article. In evaluating a request for a waiver or extension of time, the secretary shall review the findings of the board or council, the evidence in the record of the local agency, and any other evidence the secretary may receive concerning the cancellation, waiver, or extension of time.

(d) When deferred taxes required by this section are collected, they shall be transmitted by the county treasurer to the Controller and be deposited in the General Fund. The funds collected by the county treasurer with respect to each cancellation of a contract shall be transmitted to the Controller within 30 days of the board's or council's execution of a certificate of cancellation of contract, as specified in subdivision (b) of Section 51283.4.

(e) The first four hundred fifty thousand dollars ($450,000) of revenue paid to the Controller pursuant to subdivision (d), in the 1984–85 fiscal year and any fiscal year thereafter, shall be paid to the State Treasury to the credit of the Farmlands Mapping Account, which is hereby created in the General Fund. These funds shall be available for appropriation to the Department of Conservation for purposes of the farmlands mapping and monitoring program established pursuant to Section 65570. All unencumbered funds in the Farmlands Mapping Account as of June 30 of each fiscal year shall revert to the General Fund.

(f) In addition to the amount of funds deposited in the Farmlands Mapping Account pursuant to subdivision (e), a one-time additional one hundred forty-eight thousand dollars ($148,000) of the revenue paid to the Controller, pursuant to subdivision (d), shall, upon appropriation by the Legislature, be deposited in the account and utilized by the Department of Conservation to prepare Interim Farmland maps as permitted by subdivision (d) of Section 65570.

SEC. 2. Section 51283.5 is added to the Government Code, to read:

51283.5. (a) The Department of Conservation shall submit a report containing all of the following specific information relating to not less than one-third of all cities and counties participating in the Williamson Act program on or before May 15, 1987, and on or before that date each year thereafter:

(1) The number of contract cancellation requests for which notices of hearings were mailed to the Director of Conservation

pursuant to Section 51284 which were approved by boards or councils during the prior fiscal year ending June 30 or for which approval is still pending by boards or councils on that date.

(2) The amount of cancellation fees payable to the county treasurer as deferred taxes and which are required to be transmitted to the Controller pursuant to subdivision (d) of Section 51283 which have not been collected or which remain unpaid.

(3) The total number of acres covered by certificates of cancellation of contracts during the previous fiscal year.

(b) The Legislature may, upon the request of the department, appropriate funds from the deferred taxes deposited in the General Fund pursuant to subdivision (d) of Section 51283 in an amount sufficient to prepare the report required by this section.

(c) The department shall submit the report required by subdivision (a) only if the Legislative Analyst determines, on or before July 15 of each year, that sufficient funds are appropriated by the annual Budget Act to make that report. The Legislative Analyst shall transmit that determination to the Director of Conservation, the Secretary of the Senate, and the Chief Clerk of the Assembly on or before July 15 of each year.

SEC. 3. Section 65570 of the Government Code is amended to read:

65570. (a) The Director of Conservation may establish, after notice and hearing, rules and regulations, and require reports from local officials and may employ, borrow, or contract for such staff or other forms of assistance as are reasonably necessary to carry out this section, Chapter 3 (commencing with Section 16140) of Part 1 of Division 4 of Title 2, and Section 612 of the Public Resources Code. In carrying out his or her duties under those sections, it is the intention of the Legislature that the director shall consult with the Director of Food and Agriculture and the Director of Planning and Research.

(b) By November 1 of each year, the Department of Conservation shall collect or acquire information on the amount of land converted to or from agricultural use in the previous fiscal year (July 1-June 30) for every county for which Important Farmland Series maps exist. By December 31 of each year, the department shall report to the Legislature on the data collected pursuant to this section. In reporting, the department shall specify, by category of agricultural land, the amount of land converted to, or from, agricultural use, by county and on a statewide basis. The department shall also report on the nonagricultural uses to which these agricultural lands were converted or committed.

For the purposes of this section, the following definitions apply unless otherwise specified:

(1) "Important Farmland Series maps" means those maps compiled by the United States Soil Conservation Service and updated and modified by the Department of Conservation.

(2) "Interim Farmland maps" means those maps prepared by the

Department of Conservation for areas that do not have the current soil survey information needed to compile Important Farmland Series maps. The Interim Farmland maps shall indicate areas of irrigated agriculture, dry-farmed agriculture, grazing lands, urban and built-up lands, and any areas committed to urban or other nonagricultural uses.

(3) "Category of agricultural land" means prime farmland, farmland of statewide importance, unique farmland, and farmland of local importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and grazing land. "Grazing land" means land on which the existing vegetation, whether grown naturally or through management, is suitable for grazing or browsing of livestock.

(4) "Amount of land converted to agricultural use" means those lands which were brought into agricultural use or reestablished in agricultural use and were not shown as agricultural land on Important Farmland Series maps maintained by the Department of Conservation and current to the previous July 1.

(5) "Amount of land converted from agricultural use" means those lands which were permanently converted or committed to urban or other nonagricultural uses and were shown as agricultural land on Important Farmland Series maps maintained by the Department of Conservation and current to the previous July 1.

(c) By July 1 of each year, the Department of Conservation shall update and send counties copies of Important Farmland Series maps current to the previous July 1. Counties may, until September 1 of each year, review the maps and notify the department of any changes in agricultural land pursuant to subdivision (b) that occurred during the previous fiscal year, and note and request correction of any discrepancies or errors in the classification of agricultural lands on the maps. The department shall make those corrections requested by counties. The department shall provide staff assistance, as available, to collect or acquire information on the amount of land converted to, or from, agricultural use in the previous fiscal year for those counties for which Important Farmland Series maps exist.

(d) The Department of Conservation may prepare Interim Farmland maps to supplement the Important Farmland Series maps.

(e) The Legislature finds that the purpose of the Important Farmland Series maps and the Interim Farmland maps is not to consider the economic viability of agricultural lands or their current designation in the general plan. The purpose of the maps is limited to the preparation of an inventory of agricultural lands, as defined in this chapter, as well as land already committed to future urban or other nonagricultural purposes.

CHAPTER 1343

An act to amend Section 6592 of, and to add Sections 7051.1 and 7051.2 to, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 30, 1985 Filed with Secretary of State October 1, 1985.]

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

SECTION 1. Section 6592 of the Revenue and Taxation Code is amended to read:

6592. If the board finds that a person's failure to make a timely return or payment is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the penalty provided by Sections 6476, 6477, 6511, 6565, 6591, and 7051.2.

Any person seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

SEC. 2. Section 6592 of the Revenue and Taxation Code is amended to read:

6592. If the board finds that a person's failure to make a timely return or payment is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the penalty provided by Sections 6476, 6477, 6480.4, 6511, 6565, 6591, and 7051.2.

Any person seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

SEC. 3. Sections 7051.1 is added to the Revenue and Taxation Code, to read:

7051.1. The board may adopt rules and regulations which provide for the issuance of a permit to a person who holds a valid seller's permit which allows the purchase of tangible personal property without payment by the retailer of the tax imposed under this part and any reimbursement of the sales tax to the retailer by that person, if all of the following conditions are met:

(a) That person agrees to report and pay the retailer's tax liability directly to the board.

(b) The board determines that such a direct payment permit will facilitate the collection of the tax imposed under this part.

(c) The board determines that the issuance of a direct payment permit is to the mutual convenience of the board, the person to whom the direct payment permit is issued, and the retailers whose tax liability will be reported and paid by that person.

(d) The board determines that the issuance of a direct payment

permit will not result in a tax loss either in total or on a cash flow basis. To ensure against a potential cash flow loss, the board may accelerate by not more than 10 days the prepayment due dates of a person.

(e) Any person who is issued a direct payment permit shall include with each tax return required to be filed under this part a schedule upon which all local sales and use tax, and any applicable district transactions and use tax, reported on the return as provided in subdivision (a) is allocated to the cities, counties, city and county, redevelopment agencies, and districts to which the tax would have been allocated if it had been reported and paid by the retailers.

SEC. 4. Section 7051.2 is added to the Revenue and Taxation Code, to read:

7051.2. (a) If a holder of a direct payment permit issued by the board pursuant to Section 7051.1 gives an exemption certificate to a retailer for the purpose of paying that retailer's tax liability to the board, and fails or refuses to pay that retailer's tax liability to the board on a timely basis, then in addition to that retailer's tax liability, the direct payment permitholder shall be subject to the same penalty provisions that would apply if that permit holder was the retailer.

(b) If a holder of a direct payment permit issued by the board pursuant to Section 7051.1 does not properly allocate a retailer's local sales and use tax liability, or that retailer's district transactions and use tax liability, if applicable, to the cities, counties, city and county, redevelopment agencies, and districts to which those taxes would have been allocated if properly reported by that retailer, then the direct payment permitholder shall be liable to the state for a penalty of 10 percent of the amount of that retailer's tax liability not properly allocated by the direct payment permitholder for improper allocation due to negligence or intentional disregard of the law.

SEC. 5. Section 2 of this bill incorporates amendments to Section 6592 of the Revenue and Taxation Code proposed by both this bill and SB 842. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1986, but this bill becomes operative first, (2) each bill amends Section 6592 of the Revenue and Taxation Code, and (3) this bill is enacted after SB 842, in which case Section 6592 of the Revenue and Taxation Code, as amended by Section 1 of this bill, shall remain operative only until the operative date of SB 842, at which time Section 2 of this bill shall become operative.

CHAPTER 1344

An act to amend Sections 7506.5 and 12481 of the Government Code, relating to state officers and employees.

[Approved by Governor September 30, 1985 Filed with Secretary of State October 1, 1985.]

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

SECTION 1. Section 7506.5 of the Government Code, as added by Chapter 1317 of the Statutes of 1982, is amended to read:

7506.5. The Controller shall make an agreement with one or more financial institutions participating in the Automated Clearing House pursuant to the local rules, and shall establish a program, for the direct deposit by electronic fund transfer of the benefits, after any withholding required by law and authorized deductions, of any person entitled to the receipt of benefits from any state retirement system who authorizes the direct deposit thereof by electronic fund transfer into the person's account at the financial institution of his or her choice.

SEC. 2. Section 12481 of the Government Code is amended to read:

12481. (a) Notwithstanding any other provision of law, the Controller shall make an agreement with one or more financial institutions participating in the Automated Clearing House pursuant to the local rules, and shall establish a program, for direct deposit by electronic fund transfer of the salary or wages, after any withholding required by law and authorized deductions, of officers and employees of the state who authorize the direct deposit thereof by electronic fund transfer into the person's account at the financial institution of his or her choice.

(b) The direct deposit of state payroll pursuant to this section shall be known as the State of california Sure Pay Plan.

SEC. 3. This act shall become operative on January 1, 1987.

CHAPTER 1345

An act to amend Sections 1804 and 12804.3 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 30, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 1804 of the Vehicle Code, as amended by Section 1 of Chapter 667 of the Statutes of 1984, is amended to read:

1804. The abstract shall be made upon a form furnished or approved by the department and shall contain all necessary information to identify the defendant, the date and nature of the offense, the license plate number of the vehicle involved in the offense, whether the license is commercial or noncommercial, whether the vehicle was transporting a load required to be

transported by a driver certified pursuant to Section 12804.1, and whether the operator of the vehicle is required to be certified pursuant to Section 12804.3, the date of hearing, and the judgment.

As to any abstract for which the original arrest and final conviction was for a violation of Section 23101 or 23102, as those sections read before January 1, 1982, or Section 23152 or 23153, the abstract shall contain a statement indicating the percentage of alcohol, by weight, in the person's blood whenever that percentage was determined by a chemical test. The information regarding the chemical test shall be compiled only when it is readily available to the clerk of the court. All information required to be compiled pursuant to this paragraph shall be kept confidential in the records of the department and shall not be reported upon any driving record of any individual. The information required to be compiled pursuant to this paragraph shall not be released to any other public or private agency, except for research and statistical summary purposes and, for those purposes, the name and address of the person and any other identifying information shall not be disclosed.

The Legislature finds and declares that blood-alcohol percentages have valuable research potential in providing statistical summary information on impaired drivers but that a specific blood-alcohol percentage is only an item of evidence for purposes of criminal and licensing sanctions imposed by law. The Legislature recognizes that the accuracy of the determination of a specific blood-alcohol percentage is not the critical determination in a conviction for driving under the influence of an alcoholic beverage if the blood-alcohol percentage exceeds the statutory amount. The Legislature finds and declares that the blood-alcohol percentage should not be used by the department for imposing licensing sanctions and the greater or lesser amount of the blood-alcohol percentage should not be used for any other rating purposes.

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 on or before January 1, 1989, deletes or extends that date.

SEC. 2. Section 1804 of the Vehicle Code, as amended by Section 2 of Chapter 667 of the Statutes of 1984, is amended to read:

1804. The abstract shall be made upon a form furnished or approved by the department and shall contain all necessary information to identify the defendant, the date and nature of the offense, the license plate number of the vehicle involved in the offense, whether the license is commercial or noncommercial, whether the vehicle was transporting a load required to be transported by a driver certified pursuant to Section 12804.1 and whether the operator of the vehicle is required to be certified pursuant to Section 12804.3, the date of hearing, and the judgment.

This section shall become operative on January 1, 1989.

SEC. 3. Section 12804.3 of the Vehicle Code is amended to read:

12804.3. (a) No person shall operate combinations of vehicles with any tank configuration, which are required to be operated by

a class 1 driver and which are transporting bulk liquid loads, unless the person has in his or her possession a certificate required by this section.

(b) Applicants for a certificate pursuant to this section shall pay a fee of twelve dollars ($12) to the department.

(c) Applicants for the certificate shall be required to meet all licensing requirements for a class 1 license issued pursuant to Section 12804 and shall be required to submit to a test of the applicant's knowledge and understanding of the provisions of this code and safe driving practices relating to the operation of combinations of vehicles with any tank configuration transporting bulk loads.

(d) The department may accept a certificate of training, as authorized under subdivision (b) of Section 3100, in lieu of the knowledge test required under subdivision (c) of this section, when the certificate of training is issued by an employer of the applicant.

(e) Renewal of the certificate is subject to Section 12814, as it may apply to a certificate.

(f) Implementation dates for this section may be established by the department by regulation in order to accomplish an orderly certification program.

SEC. 4. No reimbursement is required by Sections 1 and 2 of 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 Sections 1 and 2 of this act which, in the aggregate, do not result in additional net costs, and no reimbursement is required by Section 3 of 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 Section 3 of 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 1346

An act to amend Sections 15432, 15438, 15438.5, 15452, 15453.7, 15454, and 15462 of the Government Code, relating to health facilities, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 15432 of the Government Code, as amended by Chapter 349 of the Statutes of 1985, 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 of a project financed under 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 those 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 of any project.

(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 all of 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" includes 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 or of working capital 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.

(g) "Working capital" means moneys to be used by, or on behalf of, a city, city and county, county, or hospital district to pay or prepay maintenance or operation expenses or any other costs that would be treated as an expense item, under generally accepted accounting principles, in connection with the ownership or operation of a health facility by a city, county, city and county, or hospital district, including, but not limited to, reserves for maintenance or operation expenses, interest for not to exceed one year on any loan for working capital made pursuant to this part, and reserves for debt service with respect to, and any costs necessary or incidental to, that financing.

SEC. 2. Section 15438 of the Government Code is amended to read:

15438. Subject to the conditions, restrictions, and limitations of Section 15438.1, the authority may do any of the following:

(a) Adopt bylaws for the regulation of its affairs and the conduct of its business.

(b) Adopt an official seal.

(c) Sue and be sued in its own name.

(d) Receive and accept from any agency of the United States or any agency of the State of California or any municipality, county or other political subdivision thereof, or from any individual, association, or corporation gifts, grants, or donations of moneys for achieving any of the purposes of this chapter.

(e) Engage the services of private consultants to render professional and technical assistance and advice in carrying out the

purposes of this part.

(f) Determine the location and character of any project to be financed under this part, and to acquire, construct, enlarge, remodel, renovate, alter, improve, furnish, equip, own, maintain, manage, repair, operate, lease as lessee or lessor and regulate the same, to enter into contracts for any or all of those purposes, to enter into contracts for the management and operation of a project or other health facilities owned by the authority, and to designate a participating health institution as its agent to determine the location and character of a project undertaken by that participating health institution under this chapter and as the agent of the authority, to acquire, construct, enlarge, remodel, renovate, alter, improve, furnish, equip, own, maintain, manage, repair, operate, lease as lessee or lessor and regulate the same, and as the agent of the authority, to enter into contracts for any or all of those purposes, including contracts for the management and operation of that project or other health facilities owned by the authority.

(g) Acquire, directly or by and through a participating health institution as its agent, by purchase solely from funds provided under the authority of this part, or by gift or devise, and to sell, by installment sale or otherwise, any lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and other interests in lands, including lands lying under water and riparian rights, which are located within the state the authority determines necessary or convenient for the acquisition, construction, or financing of a health facility or the acquisition, construction, financing, or operation of a project, upon the terms and at the prices considered by the authority to be reasonable and which can be agreed upon between the authority and the owner thereof, and to take title thereto in the name of the authority or in the name of a participating health institution as its agent.

(h) Receive and accept from any source loans, contributions, or grants for, or in aid of, the construction, financing, or refinancing of a project or any portion of a project in either money, property, labor, or other things of value.

(i) Make secured or unsecured loans to, or purchase secured or unsecured loans of, any participating health institution in connection with the financing of a project or working capital in accordance with an agreement between the authority and the participating health institution. However, no loan to finance a project shall exceed the total cost of the project, as determined by the participating health institution and approved by the authority.

(j) Make secured or unsecured loans to, or purchase secured or unsecured loans of, any participating health institution in accordance with an agreement between the authority and the participating health institution to refinance indebtedness incurred by that participating health institution in connection with projects undertaken or for health facilities acquired or for working capital financed prior to or after January 1, 1980.

(k) Mortgage all or any portion of interest of the authority in a project or other health facilities and the property on which that project or other health facilities are located whether owned or thereafter acquired including the granting of a security interest in any property, tangible or intangible, and to assign or pledge all or any portion of the interests of the authority in mortgages, deeds of trust, indentures of mortgage or trust or similar instruments, notes, and security interests in property, tangible or intangible, of participating health institutions to which the authority has made loans, and the revenues therefrom, including payments or income from any thereof owned or held by the authority, for the benefit of the holders of bonds issued to finance the project or health facilities or issued to refund or refinance outstanding indebtedness of participating health institutions as permitted by this part.

(*l*) Lease to a participating health institution the project being financed or other health facilities conveyed to the authority in connection with that financing, upon the terms and conditions the authority determines proper, and to charge and collect rents therefor and to terminate the lease upon the failure of the lessee to comply with any of the obligations of the lease; and to include in that lease, if desired, provisions granting the lessee options to renew the term of the lease for the period or periods and at the rent, as determined by the authority, to purchase any or all of the health facilities or that upon payment of all of the indebtedness incurred by the authority for the financing of that project or health facilities or for refunding outstanding indebtedness of a participating health institution, then the authority may convey any or all of the project or the other health facilities to the lessee or lessees thereof with or without consideration.

(m) Charge and equitably apportion among participating health institutions, the administrative costs and expenses incurred by the authority in the exercise of the powers and duties conferred by this part.

(n) Obtain, or aid in obtaining, from any department or agency of the United States or of the State of California or any private company, any insurance or guarantee as to, or of, or for the payment or repayment of, interest or principal, or both, or any part thereof, on any loan, lease, or obligation, or any instrument evidencing or securing the loan, lease, or obligation, made or entered into pursuant to this part; and notwithstanding any other provisions of this part, to enter into any agreement, contract, or any other instrument whatsoever with respect to that insurance or guarantee, to accept payment in the manner and form as provided therein in the event of default by a participating health institution, and to assign that insurance or guarantee as security for the authority's bonds.

(o) Enter into any and all agreements or contracts, including agreements for liquidity and credit enhancement, execute any and all instruments, and do and perform any and all acts or things necessary, convenient, or desirable for the purposes of the authority

or to carry out any power expressly granted by this part.

(p) Invest any moneys held in reserve or sinking funds, or any moneys not required for immediate use or disbursement, at the discretion of the authority, in any obligations authorized by the resolution authorizing the issuance of the bonds secured thereof or authorized by law for the investment of trust funds in the custody of the State Treasurer.

SEC. 3. Section 15438.5 of the Government Code is amended to read:

15438.5. (a) It is the intent of the Legislature in enacting this part to provide financing only, and, except as provided in subdivisions (b), (c), and (d), only to health facilities which can demonstrate the financial feasibility of their projects without regard to the more favorable interest rates anticipated through the issuance of revenue bonds under this part. It is further the intent of the Legislature that all or part of any savings experienced by a participating health institution, as a result of that tax-exempt revenue bond funding, be passed on to the consuming public through lower charges or containment of the rate of increase in hospital rates. It is not the intent of the Legislature in enacting this part to encourage unneeded health facility construction. Further, it is not the intent of the Legislature to authorize the authority to control or participate in the operation of hospitals, except where default occurs or appears likely to occur.

(b) When determining the financial feasibility of projects for county health facilities, the authority shall consider the more favorable interest rates reasonably anticipated through the issuance of revenue bonds under this part. It is the intent of the Legislature that the authority attempt in whatever ways possible to assist counties to arrange projects which will meet the financial feasibility standards developed under this part.

(c) The authority may issue revenue bonds pursuant to this part to finance the development of a multilevel facility, or any portion of a multilevel facility, including the portion licensed as a residential facility for the elderly, if the skilled nursing facility, intermediate care facility, or general acute care hospital is operated or provided by an eligible participating health institution.

(d) The authority may issue revenue bonds pursuant to this part, if the bonds rank in either of the two highest rating categories established by a nationally recognized bond rating organization, to finance working capital for a participating health institution provided or operated by a city, city and county, county, or district hospital authorized by the laws of this state to provide or operate a health facility and which, pursuant to this part, undertakes the financing or refinancing of the construction or acquisition of a project as provided in this part.

SEC. 4. Section 15452 of the Government Code is amended to read:

15452. When the principal of and interest on bonds issued by the

authority to finance the cost of a project or working capital or to refinance outstanding indebtedness of one or more participating health institutions, including any refunding bonds issued to refund and refinance those bonds, have been fully paid and retired or when adequate provision has been made to fully pay and retire those bonds, and all other conditions of the resolution, the lease, the trust indenture and any mortgage or deed of trust, security interest, or any other instrument or instruments authorizing and securing the bonds have been satisfied and the lien of the mortgage, deed of trust or security interest has been released in accordance with the provisions thereof, the authority shall promptly do all things and execute those releases, release deeds, reassignments, deeds, and conveyances necessary and required to convey or release any rights, title, and interest of the authority in the project so financed, and any other health facilities mortgaged or securities or instruments pledged or transferred to secure the bonds, to the participating health institution or institutions.

SEC. 4.5. Section 15453.7 of the Government Code is amended to read:

15453.7. Notwithstanding Section 15453, 15453.5, or 15453.6, 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. 5. Section 15454 of the Government Code is amended to read:

15454. Notwithstanding Section 15453, bonds issued pursuant to this part shall not be subject to the limitation of, or be considered or included in computing the amount of outstanding bonds for purposes of, Section 15453, 15453.5, 15453.6, or 15453.7, if issued to finance any of the following:

(a) A project which is, or is for, 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 project under that section.

(b) A project which is, or is for, an adult day health center.

(c) A project which is, or is for, a multilevel facility.

(d) A project or working capital for a city, city and county, county, or hospital district pursuant to Section 15462.

SEC. 6. Section 15462 of the Government Code is amended to read:

15462. Exclusively for the purpose of securing the financing of projects or working capital through the issuance of revenue bonds through the authority, and notwithstanding any other provision of law, any city, city and county, county, or local hospital district may borrow money from the authority at the interest rate or rates, with the maturity date or dates, and under the terms specified in a loan,

loan purchase, or other agreement between the authority and the city, city and county, county, or hospital district, and the city, city and county, county or hospital district may enter into any agreement for liquidity or credit enhancement that may be necessary or appropriate, as determined by the authority, in connection with that borrowing of money. This section provides a complete, additional, and alternative method for performing the acts authorized by this section, and the borrowing of money from the authority, and any agreement for liquidity or credit enhancement in connection with the borrowing of money pursuant to this section need not comply with the requirements of any other law applicable to borrowing by a city, county, city and county, or hospital district.

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:

Cities, counties, hospital districts, and a city and county are finding it difficult or impossible to borrow sufficient funds to finance their working capital needs with respect to health facilities owned or operated by those cities, counties, hospital districts, and the city and county. In order to make that financing available to those entities as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 1347

An act to amend Section 81831 of, and to repeal and add Section 81838 of, the Education Code, relating to community colleges.

[Approved by Governor September 30, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. (a) The Legislature hereby finds and declares that community colleges have the following capital outlay needs:

(1) Construction of community colleges in districts without permanent campuses.

(2) Construction of new facilities at existing campuses, consistent with the balanced campus concept adopted by the Board of Governors of the California Community Colleges.

(3) Renovation and repair of existing community college facilities.

(b) The Legislature further finds that due to revenue constraints in recent years, many community college districts are unable to provide required matching funds for capital outlay projects in a single fiscal year.

(c) In enacting this act, it is the intent of the Legislature to provide state assistance for priority community college capital outlay projects to the extent that nonstate funds cannot be secured.

SEC. 2. Section 81831 of the Education Code is amended to read:

81831. The chancellor shall review and evaluate each proposed project with reference to the elements of the capital construction program specified in Section 81821. The review shall include the following elements:

(a) An architectural analysis to determine costs of the various phases of the project, with particular attention to be directed to the type of construction, unit costs, and the efficiency of particular buildings and facilities in terms of effective utilization of area.

(b) Determining the amount of federal funds available for the project, and taking appropriate measures to ensure that the project will qualify for the maximum amounts of federal funds practicable under the circumstances.

"Federal funds" means any construction and equipment moneys provided by the federal government to a community college district for the project or any part of the project, which are or will be available to the district for the project.

(c) Determining the total cost of the project, reducing the total cost by the amount of federal funds available therefor, and determining the remainder thereof to be borne by the state, or, if the district has matching funds, by the state and by the district.

The determination as to whether the district has funds to provide all or part of its matching share of the project shall be made on the basis of district ability. If the district ability, as determined by Section 81838, is sufficient to meet the matching costs of the project or its individual phases of planning, working drawings, construction, equipment, or land acquisition, the district shall bear its matching share of the cost of the project or one or more of its phases. If the district funds available are insufficient to provide the district's matching share for the cost of the project or one or more of its phases, computed pursuant to Section 81838, the district shall provide the moneys available, as defined by the board of governors, and state funds may be requested to provide the balance of funds required.

Private funds available for specific projects may be used as a credit toward the district match.

(d) Determining the total of funds required for the first phase of the project to be provided on a matching basis by the state and the district, and the total state appropriation required to be provided for the project or one or more of its phases.

SEC. 3. Section 81838 of the Education Code is repealed.

SEC. 4. Section 81838 is added to the Education Code, to read:

81838. The board of governors shall adopt criteria for determining districts' matching shares of the cost of capital outlay projects. Pursuant to that criteria, the chancellor shall recommend each district's match, which shall be reviewed by the board in forwarding its annual budget request to the Department of Finance for determination by the Legislature.

CHAPTER 1348

An act to amend Sections 8505.1, 8505.2, 8505.3, 8505.7, 8505.10, 8505.11, 8505.12, 8505.13, 8505.14, 8505.15, 8505.17, 8506, 8507, 8509, 8512, 8513, 8514, 8515, 8516, 8516.5, 8518, 8519, 8531, 8533, 8534, 8538, 8550, 8551.5, 8552, 8554, 8556, 8561, 8562, 8563, 8564, 8564.5, 8567, 8568, 8569, 8570, 8571, 8590, 8612, 8613, 8615, 8616.5, 8617, 8620, 8621, 8622, 8624, 8625, 8632, 8637, 8638, 8639, 8640, 8642, 8644, 8646.5, 8648, 8649, 8650, 8651, 8652, 8653, 8654, 8655, 8657, 8662, 8671, 8673, 8674, 8675, 8690, 8691, 8692, 8693, 8695, 8697, 8697.2, 8697.3, and 8697.4 of, to add Sections 8506.1, 8506.2, 8566.5, 8610, and 8611 to, and to repeal Sections 8557, 8610, 8690.5, 8694, and 8697.1 of, the Business and Professions Code, relating to structural pest control, and making an appropriation therefor.

[Approved by Governor September 30, 1985. Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 8505.1 of the Business and Professions Code is amended to read:

8505.1. For the purpose of this act, "fumigation" shall be defined as the use within an enclosed space for the destruction of plant or animal life, a substance having a vapor pressure greater than 5 millimeters of mercury at 25 degrees centigrade.

The following is a list of lethal fumigants:

1. Hydrogen cyanide
2. Calcium cyanide (when used as provided in Section 8505)
3. Chloropicrin
4. Methyl bromide
5. Acrylonitrile
6. Sulfur dioxide
7. Carbon bisulfide
8. Carbon monoxide
9. Carbon tetrachloride
10. Ethylene dichloride
11. Ethylene dibromide
12. Carbon dioxide
13. Methyl formate
14. Ethyl formate
15. Methallyl chloride
16. Trichloroacetonitrile
17. Trichloroethylene and Trichloroethane
18. Hexachloropropene
19. Heptachloropropane
20. Propylene dichloride
21. Ethylene chlorohydrin
22. Epichlorohydrin

23. Monochloroacetonitrile
24. Cyclopropyl ethyl ether
25. Propylene oxide
26. Ethylene oxide
27. Cyclohexine oxide.
28. Hydrogen phosphide
29. Sulfuryl fluoride

The board may by regulation adopt, and may from time to time by regulation amend, a list of fumigants whose use as described in this section shall constitute fumigation for purposes of this chapter.

SEC. 2. Section 8505.2 of the Business and Professions Code is amended to read:

8505.2. Fumigation shall be performed only under the direct and personal supervision of an individual who is licensed by the board as an operator or field representative in a branch of pest control which includes fumigation or who is the qualifying manager of a registered company which is so registered.

SEC. 3. Section 8505.3 of the Business and Professions Code is amended to read:

8505.3. "Direct and personal supervision" as used in Section 8505.2 means that the licensee exercising such supervision shall be present at the site of the fumigation during the entire time the fumigants are being released, the time ventilation is commenced, and at the time property is released for occupancy.

SEC. 4. Section 8505.7 of the Business and Professions Code is amended to read:

8505.7. The space to be fumigated shall be vacated by all occupants prior to the commencement of fumigation, and all entrances thereto shall be locked, barricaded, or otherwise secured against entry until the end of exposure period, then opened for ventilation and relocked, barricaded, or otherwise secured against re-entry, until declared by the licensee exercising direct and personal supervision over the fumigation to be safe for reoccupancy.

SEC. 5. Section 8505.10 of the Business and Professions Code is amended to read:

8505.10. Warning signs shall be printed in red on white background and shall contain the following statement in letters not less than two inches in height: "DANGER—FUMIGATION." They shall also depict a skull and crossbones not less than one inch in height and shall state in letters not less than one-half inch in height the name of the fumigant, the date and time fumigant was injected, and the name, address and telephone number of the registered company performing the fumigation.

SEC. 6. Section 8505.11 of the Business and Professions Code is amended to read:

8505.11. If the structure which has been fumigated has an attic or if the area underneath such structure is accessible to inspection for purposes of structural pest control, the registered company which performed the fumigation shall, immediately upon completion, post

in the attic, immediately adjacent to the entrance thereto, or in the area underneath the structure, immediately adjacent to the main entrance vent thereof, or in both of such places if the structure has an attic and an accessible underarea, a durable sign not less than five inches by seven inches in size stating the name of the registered company, the date of fumigation, and the type of fumigant used.

SEC. 7. Section 8505.12 of the Business and Professions Code is amended to read:

8505.12. A registered company performing fumigation shall use an adequate warning agent with all fumigants which lack such properties. When conditions involving abnormal hazards exist, the licensee exercising direct and personal supervision shall take such safety precautions in addition to those prescribed by this chapter as are reasonably necessary to protect the public health and safety.

SEC. 8. Section 8505.13 of the Business and Professions Code is amended to read:

8505.13. A registered company shall maintain a log of each fumigation job performed by it in this state. The log shall be in the form required by the regulations of the board and shall be preserved for a period of at least two years, during which time it shall be available at all times during business hours for inspection by the board and its authorized representatives.

SEC. 9. Section 8505.14 of the Business and Professions Code is amended to read:

8505.14. "Fumigator" means any individual licensed by the board as a structural pest control operator or as a structural pest control field representative who shall have been qualified by the board in the branch of pest control which includes fumigation as set forth in Section 8560.

SEC. 10. Section 8505.15 of the Business and Professions Code is amended to read:

8505.15. Two effective masks of a type approved by the National Institute of Occupational Safety and Health for protection against the fumigant being used shall be made readily available by the registered company to a fumigating crew whenever a fumigant is released or removed from a structure.

SEC. 11. Section 8505.17 of the Business and Professions Code is amended to read:

8505.17. (a) There is hereby created in the State Treasury a special fund to be known as the Structural Pest Control Education and Enforcement Fund. Funds derived from the pesticide use report filing fee provided for in Section 8674 and all proceeds from civil penalties collected by the board pursuant to Section 8617 shall be deposited in the Education and Enforcement Account which is hereby created in the fund. The account shall be used by the board (1) for the purposes of training as provided in Section 8616, (2) for reimbursement to the Director of Food and Agriculture for work performed as the agent of the board pursuant to Sections 8616, 8616.4, and 8617 of this code and Section 15202 of the Food and Agricultural

Code and for cases referred to the board pursuant to subdivision (b) of Section 8616.5, and (3) for reasonable expenses incurred by the Disciplinary Review Committee. There is no reimbursement from this fund for inspections and routine investigations.

(b) The board may withhold funds from its agent if it is not satisfied that its agent has corrected the problems which resulted in a suspension as provided in Section 8616.6. The authority to withhold funds shall be limited only to the withholding of an amount otherwise due the agent for reimbursable activities performed in the county or counties for which a notice has been filed pursuant to Section 8616.6.

(c) Each pesticide use report or combination of use reports representing a registered structural pest control company's total county pesticide use for the month, filed with a county agricultural commissioner pursuant to Section 14011.5 of the Food and Agricultural Code for applications performed under a structural pest control company registration shall have affixed thereto a pesticide use stamp issued by the board in the denomination fixed by the board in accordance with Section 8674 as the pesticide use report filing fee. The board shall provide for the sale of these stamps and for the refund of moneys paid for stamps which are returned to it unused.

(d) All other proceeds from civil penalties collected by the board shall be deposited in the Civil Penalties Account which is hereby created in the fund. These funds shall be available to the board upon appropriation by the Legislature for the purposes of enforcing this chapter.

(e) Any amount remaining in the Structural Pest Control Education and Enforcement Fund upon the repeal of this section shall, on or before December 31, 1986, be deposited to the credit of the Structural Pest Control Fund.

(f) This secton 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. 12. Section 8506 of the Business and Professions Code is amended to read:

8506. (a) "Structural pest control operator" is any individual licensed by the board to practice structural pest control.

(b) As used in this chapter, "operator" refers to "structural pest control operator."

(c) In the event of death of a licensee, the executor or administrator of the deceased person may obtain from the board written authorization for such executor or administrator to conduct the business of such deceased licensee for a period not to exceed one year after the date of death for the purpose of winding up or disposing of the structural pest control business of the deceased licensee; but such authorization shall not entitle such executor or administrator to solicit, engage in, or undertake any structural pest control work not already contracted for by such deceased licensee unless a properly classified and licensed operator is employed to manage, supervise, and direct the business.

SEC. 13. Section 8506.1 is added to the Business and Professions Code, to read:

8506.1. A "registered company" is any sole proprietorship, partnership, corporation, or other organization or any combination thereof which is registered with the Structural Pest Control Board to engage in the practice of structural pest control.

A registered company may secure structural pest control work, identify infestations or infections, make inspections, submit bids or otherwise contract for pest control work. A registered company may hire licensed field representatives and licensed operators to represent the company in the securing of pest control work. A registered company may hire or employ individuals who are not licensed under this chapter to perform work on contracts covering wood-destroying organisms only after an operator or field representative has fully completed the negotiation or signing of the contract covering a given job.

A registered company may hire and use individuals who are not licensed under this chapter on service contracts already established.

SEC. 14. Section 8506.2 is added to the Business and Professions Code, to read:

8506.2. A "qualifying manager" is the licensed operator or operators designated by a registered company to supervise the daily business of the company and to be available to supervise and assist the company's employees.

SEC. 15. Section 8507 of the Business and Professions Code is amended to read:

8507. (a) "Structural pest control field representative" is any individual who is licensed by the board to secure structural pest control work, identify infestations or infections, make inspections, submit bids for or otherwise contract, in behalf of a registered company.

A pest control field representative shall not contract for pest control work or perform pest control work in his or her own behalf.

(b) As used in this chapter, "field representative" refers to "structural pest control field representative."

SEC. 16. Section 8509 of the Business and Professions Code is amended to read:

8509. "Branch office" is any fixed place of business in addition to the location of business for which the company registration is issued, where records are kept, mail received, statements rendered, money is collected, or requests are received for service or bids, or information is given pertaining to the practice of pest control, other than governmental offices.

SEC. 17. Section 8512 of the Business and Professions Code is amended to read:

8512. "Employer" refers to a registered company which hires operators, field representatives and other individuals, the latter not being required to be licensed under this chapter, and who work on pest control jobs under the supervision of an operator or field

representative.

SEC. 18. Section 8513 of the Business and Professions Code is amended to read:

8513. (a) The board shall prescribe a form entitled "Notice to Owner" which shall describe, in nontechnical language and in a clear and coherent manner using words with common and everyday meaning, the pertinent provisions of this state's mechanics' lien laws and the rights and responsibilities of an owner of property and a registered pest control company thereunder. Each company registered under this chapter, prior to entering into a contract with an owner for work for which a company registration is required, shall give a copy of this "Notice to Owner" to the owner, his or her agent, or the payer.

(b) No company which is required to be registered under this chapter shall require or request a waiver of lien rights from any subcontractor, employee, or supplier.

(c) Each company registered under this chapter which acts as a subcontractor for another company registered under this chapter shall, with 20 days of commencement of any work for which a company registration is required, give the preliminary 20-day notice (private work) in accordance with the provisions of Section 3097 of the Civil Code, to the owner, his or her agent, or the payer.

(d) Each company registered under this chapter which acts as a prime contractor for work for which a company registration is required shall, prior to accepting payment for the work, furnish to the owner, his or her agent, or the payer a full and unconditional release from any claim of mechanics' lien by any subcontractor entitled to enforce a mechanics' lien pursuant to Section 3114 of the Civil Code.

(e) Each company registered under this chapter which subcontracts to another company registered under this chapter work for which a company registration is required shall furnish to the subcontractor the name of the owner, his or her agent, or the payer.

(f) The provisions of this section shall be applicable only to those registered companies, as defined in Section 8506.1, operating pursuant to a branch 1 or branch 3 registration.

(g) A violation of the provisions of this section is a ground for disciplinary action.

SEC. 19. Section 8514 of the Business and Professions Code is amended to read:

8514. Notwithstanding any provision of this chapter, after an inspection has been made a registered company which holds a branch registration for the control of household pests, or wood destroying pests or organisms, but its branch registration restricts the method of eradication or control permitted, may recommend and enter into a contract for the eradication or control of pests within the scope of its branch registration, provided it subcontracts in writing the actual performance of the work to a registered company which holds a branch registration authorizing the particular method to be

used.

A registered company may in writing subcontract any pest control work for which it is registered in any branch or branches to a registered company holding a valid branch registration to do such work.

Nothing herein contained shall permit or authorize any registered company to perform, attempt to perform, advertise or hold out to the public or to any person that it is authorized, qualified or registered to perform, pest control work in any branch, or by any method, for which it is not registered.

Subcontracting of work, as permitted herein, shall not relieve the prime contractor or the subcontractor from responsibility for, or from disciplinary action because of, any act or omission on its part, which would otherwise be a ground for disciplinary action.

SEC. 20. Section 8515 of the Business and Professions Code is amended to read:

8515. Nothing in this chapter shall prohibit a company registered hereunder from authorizing an officer, partner, or employee to submit bids, after an inspection by an individual licensed under this act, or to sign contracts after negotiation by an individual licensed under this act, on behalf of the registered company.

SEC. 21. Section 8516 of the Business and Professions Code is amended to read:

8516. (a) The provisions of this section shall apply only to wood-destroying pests or organisms.

(b) No registered company shall commence work on a contract, or sign, issue or deliver any documents expressing an opinion or statement relating to the absence or presence of wood-destroying pests or organisms until an inspection has been made. The registered company shall retain for three years all field reports from which a verbal or written estimate of or solutions for work are made. A written inspection report conforming to this section and on a form prescribed by the board shall be prepared and delivered to the person requesting the inspection or to the person's designated agent. A copy of each report shall be filed with the board at the time the report is delivered or not later than five working days after the date the inspection is made. The report shall be delivered to the person requesting the inspection, or to the person's designated agent, before work is commenced. The following shall be set forth in the report:

(1) The date of the inspection and the name of the licensee making the inspection.

(2) The name and address of the person or firm ordering the report.

(3) The name and address of any person who is a party in interest to whom the board is to send certified copies of inspection reports and completion notices as provided in subdivision (e).

(4) The address or location of the property.

(5) A general description of the building or premises inspected.

(6) A foundation diagram or sketch of the structure or structures

or portions of the structure or structures inspected, indicating thereon the approximate location of any infested or infected areas evident, and the parts of the structure where conditions exist which would ordinarily subject such parts to attack by wood-destroying pests or organisms.

(7) Information regarding the substructure, foundation walls and footings, porches, patios and steps, air vents, abutments, attic spaces or other parts subject to attack by wood-destroying pests or organisms. Conditions usually deemed likely to lead to infestation or infection, such as earth contacts, excessive cellulose debris, faulty grade levels, excessive moisture conditions and insufficient ventilation are to be reported.

(8) Indication or description of any areas normally subject to damage which are inaccessible or for other reason not inspected, with suggestion for further inspection if practicable. If, after the report has been made in compliance with the provisions of this section, authority is given later to open inaccessible areas, a supplementary report on conditions in these areas shall be made.

(9) Recommendations for corrective measures.

(10) Information regarding the pesticide or pesticides to be used for their control as set forth in subdivision (a) of Section 8538.

(11) The inspection report shall clearly disclose that if requested by the person ordering the original report, a reinspection of the structure will be performed if an estimate or bid for making repairs was given with the original inspection report, or thereafter.

An estimate shall be given with the original inspection report if the person who ordered the original inspection report so requests, and if the registered company is regularly in the business of performing corrective measures.

If no estimate or bid was given with the original inspection report, or thereafter, then the registered company shall not be required to perform a reinspection.

A reinspection shall be an inspection of those items previously listed on an original report to determine if the recommendations have been completed. Each reinspection shall be reported on an original inspection report form and shall be labeled "Reinspection" in capital letters by rubber stamp or typewritten. Each reinspection shall also identify the original report by date and stamp numbers.

After four months from an original inspection, all inspections shall be original inspections and not reinspections.

Any reinspection shall be performed for not more than the price of the registered company's original inspection price and shall be completed within 10 working days after a reinspection has been ordered.

(c) The report and any contract entered into shall also state specifically when any guarantee for the work is made, and if so, the specific terms of the guarantee and the period of time for which the guarantee shall be in effect.

(d) Control service is defined as the regular reinspection of a

property after a report has been made in compliance with the provisions of this section and such corrections as have been agreed upon have been completed. Under a control service agreement a registered company shall refer to the original report and contract in a manner as to identify them clearly, and the report shall be assumed to be a true report of conditions as originally issued, except it may be modified after a control service inspection. A registered company is not required to issue a report as outlined in paragraphs 1 to 9, inclusive, of subdivision (b) after each control service inspection. If after control service inspection, no modification of the original report is made in writing, then it will be assumed that conditions are as originally reported. A control service contract shall state specifically the particular wood-destroying pests or organisms and the portions of the buildings or structures covered by the contract.

(e) Whenever a report is filed pursuant to subdivision (b), the board shall forthwith send to any person or firm designated under paragraph 3 of that subdivision a certified copy of all inspection reports and completion notices made on the property and filed with the board during the preceding two years, if so requested and upon payment of an appropriate search fee.

(f) All work recommended by a registered company, where an estimate or bid for making repairs was given with the original inspection report, or thereafter, shall be recorded on this report or a separate work agreement and shall specify a price for each recommendation. This information shall be provided to the person requesting the inspection, and shall be retained by the registered company with the inspection report copy for two years.

SEC. 22. Section 8516.5 of the Business and Professions Code is amended to read:

8516.5. Any registered company which makes an inspection of any property relating to the absence or presence of wood-destroying pests or organisms on such property and makes a report of such inspection shall furnish a copy of the report either to the owner of the property, or if the owner has consented in writing, to the agent of the owner, within five working days after completing the report.

SEC. 23. Section 8518 of the Business and Professions Code is amended to read:

8518. When a registered company completes work under a contract, it shall not later than five working days thereafter file with the board a notice of work completed, on a form prescribed by the board. The notice shall include a statement of the cost of the completed work and estimated cost of work not completed. Each such notice shall have affixed thereto a stamp issued by the board in the denomination fixed by the board pursuant to Section 8674 as the fee for filing a notice of work completed. The board shall provide for the sale of such stamps and for the refund of moneys paid for stamps which are returned to it unused.

SEC. 24. Section 8519 of the Business and Professions Code is amended to read:

8519. Certification as used in this section means a written statement by the registered company attesting to the statement contained therein relating to the absence or presence of wood-destroying pests or organisms and, listing such recommendations, if any, which appear on an inspection report prepared pursuant to Section 8516, and which relate to (1) infestation or infection of wood-destroying pests or organisms found, or (2) repair of structurally weakened members caused by such infestation or infection, and which recommendations have not been completed at the time of certification.

Any registered company which makes an inspection report pursuant to Section 8516, shall, if requested by the person ordering such inspection report, prepare and deliver to such person or his or her designated agent, a certification, to provide:

(a) When the inspection report prepared pursuant to Section 8516 has disclosed no infestation or infection: "This is to certify that the above property was inspected on _____ (date) in accordance with the Structural Pest Control Act and rules and regulations adopted pursuant thereto, and that no evidence of active infestation or infection was found."

(b) When the inspection report prepared pursuant to Section 8516 discloses infestation or infection and the notice of work completed prepared pursuant to Section 8518 indicates that all recommendations to remove that infestation or infection and to repair damage caused by that infestation or infection have been completed: "This is to certify that the property described herein is now free of evidence of active infestation or infection."

(c) When the inspection report prepared pursuant to Section 8516 discloses infestation or infection and the notice of work completed prepared pursuant to Section 8518 indicates that the registered company has not completed all recommendations to remove that infestation or infection or to repair damage caused by it: "This is to certify that the property described herein is now free of evidence of active infestation or infection except as follows: _____ (describing infestations, infections, damage or evidence thereof, excepted)."

Such certificate shall be accompanied by a copy of the inspection report prepared pursuant to Section 8516, and by a copy of the notice of work completed prepared pursuant to Section 8518, if any such notice has been prepared at the time of the certification, or such certification may be endorsed on and made a part of that inspection report or notice of work completed.

SEC. 25. Section 8531 of the Business and Professions Code is amended to read:

8531. The registrar shall keep a complete record of the board's actions, and shall maintain at the office of the board a complete index record of all applications for licenses and registrations issued, licenses renewed, and all revocations, cancellations, and suspensions of licenses and registrations.

SEC. 26. Section 8533 of the Business and Professions Code is

amended to read:

8533. Whenever funds are available for the purpose, the registrar, at the discretion of the board, may publish, or cause to be published, a roster of the individuals licensed and companies registered under the provisions of this chapter. A copy of such roster may be furnished to registered companies and such state agencies as the registrar may select, at such intervals as he or she deems necessary. Copies of the roster may be sold at a price fixed by the board.

SEC. 27. Section 8534 of the Business and Professions Code is amended to read:

8534. Whenever funds are available for the purpose, the registrar, at the direction of the board, may publish and disseminate to individuals licensed and companies registered under this chapter and to public officials and other persons interested in the practice of pest control, such information relative to the administration and enforcement of this chapter as the board deems necessary to carry out its purposes.

SEC. 28. Section 8538 of the Business and Professions Code is amended to read:

8538. (a) A structural pest control operator, field representative, or employee of a registered company shall provide the owner, or owner's agent, and tenant of the premises for which the work is to be done with clear written notice which contains the following statements and information using words with common and everyday meaning:

(1) The pest to be controlled.

(2) The pesticide or pesticides proposed to be used, and the active ingredient or ingredients.

(3) "State law requires that you be given the following information: CAUTION—PESTICIDES ARE TOXIC CHEMICALS. Structural Pest Control Companies are registered and regulated by the Structural Pest Control Board, and apply pesticides which are registered and approved for use by the California Department of Food and Agriculture and the United States Environmental Protection Agency. Registration is granted when the state finds that based on existing scientific evidence there are no appreciable risks if proper use conditions are followed or that the risks are outweighed by the benefits. The degree of risk depends upon the degree of exposure, so exposure should be minimized."

"If within 24 hours following application you experience symptoms similar to common seasonal illness comparable to the flu, contact your physician or poison control center (telephone number) and your pest control company immediately." (This statement shall be modified to include any other symptoms of overexposure which are not typical of influenza.)

"For further information, contact any of the following: Your Pest Control Company (telephone number); for Health Questions—the County Health Department (telephone number); for Application Information—the County Agricultural Commissioner (telephone

number) and for Regulatory Information—the Structural Pest Control Board (telephone number and address)."

(b) In the case of Branch 1 applications, the notice, as prescribed by subdivision (a), shall be provided at least 48 hours prior to application unless fumigation follows inspection by less than 48 hours.

In the case of Branch 2 or Branch 3 applications, the notice, as prescribed by subdivision (a) shall be provided no later than prior to application.

In either case, the notice shall be given to the owner, or owner's agent, and tenant, if there is a tenant, in at least one of the following ways:

(1) First-class mail.

(2) Posting in a conspicuous place on the real property.

(3) Personal delivery.

If the building is commercial or industrial, a notice shall be posted in a conspicuous place, unless the owner or owner's agent objects, in addition to any other notification required by this section.

The notice shall only be required to be provided at the time of the initial treatment if a contract for periodic service has been executed. If the pesticide to be used is changed, another notice shall be required to be provided in the manner previously set forth herein.

(c) On or before January 1, 1986, the board shall promulgate appropriate administrative regulations for the implementation of this section.

(d) Any person or licensee who, or registered company which, violates any provision of this section is guilty of a misdemeanor and is punishable as set forth in Section 8553.

SEC. 29. Section 8550 of the Business and Professions Code is amended to read:

8550. (a) It is unlawful for any individual to engage or offer to engage in the business of, act in the capacity of, or advertise himself or herself as, or assume to act as, an operator or a field representative, or to engage or offer to engage in the practice of structural pest control, unless he or she is licensed under this chapter.

(b) Except as provided in subdivision (c), on and after January 1, 1987, it is unlawful for any firm, partnership, corporation, association or other organization or combination thereof to engage or offer to engage in the practice of structural pest control, unless registered in accordance with Article 6 (commencing with Section 8610).

(c) An individual, partnership, or corporation holding an operator's license on January 1, 1987, issued in the company name style, may, before January 1, 1988, upon application and payment of the operator's license fee and company registration fee in accordance with Section 8674, be issued a company registration in the company name style and, without examination, an operator's license in the name of the owner or qualifying manager or managers.

SEC. 30. Section 8551.5 of the Business and Professions Code is amended to read:

8551.5. No unlicensed individual in the employ of a registered company shall apply any insecticide, pesticide, rodenticide, fumigant, or allied chemicals or substances for the purpose of eliminating, exterminating, controlling or preventing infestation or infections of such pests, or organisms included in Branch 2 or Branch 3 unless such individual has successfully passed an examination conducted by the board pursuant to Section 8564.5.

SEC. 31. Section 8552 of the Business and Professions Code is amended to read:

8552. It is unlawful for any person to advertise or represent in any manner that any pest control work, in whole or in part, has been done upon any structure, unless the work has been performed by a company registered under this chapter.

SEC. 32. Section 8554 of the Business and Professions Code is amended to read:

8554. No individual engaged in the business or acting in the capacity of an operator may bring or maintain an action in any court of this state for the collection of compensation for the performance of any act or contract without alleging and proving that he or she was a duly licensed operator at all times during the performance of such act or contract.

No firm, partnership, corporation, association or other organization or combination thereof engaged in the practice of structural pest control may bring or maintain an action in any court of this state for the collection of compensation for the performance of any act or contract without alleging and proving that it was a duly registered company at all times during the performance of the act or contract.

Nothing herein shall prohibit the bringing or maintaining an action for the collection of compensation in the event of a suspension or revocation of a license or company registration by the board, if the order of suspension or revocation authorized the performance of the act or work, compensation for which the action is brought or maintained.

SEC. 33. Section 8556 of the Business and Professions Code is amended to read:

8556. (a) Licensed contractors acting in their capacity as such, may remove and replace any structure or portions of a structure damaged by wood-destroying pests or organisms if such work is incidental to other work being performed on the structure involved or if such work has been identified by a structural pest control inspection report.

This exemption does not authorize the performance of any other acts defined in Section 8505.

(b) A licensed contractor may contract for the performance of any soil treatment pest control work to eliminate, exterminate, control, or prevent infestations or infections of pests or organisms in

the ground beneath or adjacent to any existing building or structure or in or upon any site upon which any building or structure is to be constructed, but the actual performance of any such work must be done by a registered structural pest control company.

SEC. 34. Section 8557 of the Business and Professions Code is repealed.

SEC. 35. Section 8561 of the Business and Professions Code is amended to read:

8561. Any individual 18 years of age or over may apply for a license as an operator.

The applicant shall possess the qualifications and be examined as hereinafter prescribed. Within one year after such individual passes the examination and if the individual qualifies for an operator's license, as herein prescribed, the board shall issue to him or her an operator's license.

SEC. 36. Section 8562 of the Business and Professions Code is amended to read:

8562. To obtain an original operator's license, an applicant shall submit to the registrar an application in writing containing the statement that the applicant desires the issuance of an operator's license under the terms of this chapter.

The application shall be made on forms prescribed by the board and issued by the registrar in accordance with rules and regulations adopted by the board, and shall contain the following:

(a) The name of the applicant.

(b) Proof satisfactory to the board that the applicant has had actual experience for a period of not less than the time specified opposite the branches listed below in the employ of a registered company in the State of California in the particular branch or branches of pest control for which the applicant desires to be licensed, or the equivalent of such experience:

Branch 1	2 years
Branch 2	2 years
Branch 3	4 years

For the purpose of this subdivision one year shall equal 1,600 hours of actual experience in the field.

(c) A designation of the branch or branches for which the application is made.

(d) The fees prescribed by this chapter.

(e) No operator's license shall be issued to an individual under 18 years of age.

SEC. 37. Section 8563 of the Business and Professions Code is amended to read:

8563. Any individual 18 years of age or over may apply for a license as field representative.

The applicant shall possess the qualifications and be examined as hereinafter prescribed. Within one year after the individual passes

the examination and if the applicant qualifies for a field representative's license, as herein prescribed, the board shall issue to him or her a field representative's license.

SEC. 38. Section 8564 of the Business and Professions Code is amended to read:

8564. To obtain an original field representative's license, an applicant shall submit to the registrar an application in writing containing a statement that the applicant desires the issuance of a field representative's license under the terms of this chapter.

The application shall be made on a form prescribed by the board and issued by the registrar in accordance with rules and regulations adopted by the board, and shall contain the following:

(a) The length of time during which the applicant has engaged in any work relating to pest control.

(b) The name and place of business of the person who last employed him or her.

(c) The name of the person by whom the applicant is employed.

(d) The name of the registered company by which the applicant is to be employed.

(e) The fees prescribed by this chapter.

The board shall not accept any application for a field representative license in Branch 1 unless the applicant submits proof satisfactory to the board that he or she has had six months' training and experience in the practice of fumigating with poisonous or lethal gases under the immediate supervision of a individual licensed to practice fumigating, or the equivalent of such training and experience.

The board shall not accept any application for a field representative license in Branch 2 unless the applicant submits proof satisfactory to the board that he or she has had training and experience in the practice of pesticide application, Branch 2 pest identification and biology, pesticide application equipment, and pesticide hazards and safety practice under the immediate supervision of an operator or field representative licensed in Branch 2, or the equivalent of such training and experience.

The board shall not accept any application for a field representative license in Branch 3 unless the applicant submits proof satisfactory to the board that he or she has had training and experience in the practice of pesticide application, Branch 3 pest identification and biology, pesticide application equipment, pesticide hazards and safety practices, structural repairs, and structural inspection procedures and report writing under the immediate supervision of an operator or field representative licensed in Branch 3, or the equivalent of such training and experience.

SEC. 39. Section 8564.5 of the Business and Professions Code is amended to read:

8564.5. Prior to the application of any chemical substance included in Branch 2 or Branch 3 by any unlicensed individual in the employ of a registered company, as specified in Section 8551.5, the

board shall ascertain by written examination that such individual has sufficient knowledge in pesticide equipment, pesticide mixing and formulation, pesticide application procedures and pesticide label directions.

The board may charge a fee for any examination required by this section in an amount sufficient to cover the cost of administering such examination, provided, however, that such fee shall not exceed fifteen dollars ($15).

SEC. 40. Section 8566.5 is added to the Business and Professions Code, to read:

8566.5. No individual shall be permitted to hold both an operator's and a field representative's license in the same branch at the same time. Field representatives' licenses which are held by individuals who are also licensed as operators on January 1, 1987, shall hereby be automatically canceled. All licenses canceled in accordance with this provision shall be returned to the board on or before April 1, 1987.

If an individual who holds an operator's license requests to be licensed as a field representative, he or she may apply for a field representative's license and shall be granted the license without examination, if he or she surrenders his or her operator's license to the board, and provided that no disciplinary action has been initiated against the operator's license prior to the date of the individual's application for a field representative's license.

SEC. 41. Section 8567 of the Business and Professions Code is amended to read:

8567. Should a field representative change his or her employment, or should an operator enter the employ of a registered company, or being already employed by a registered company change his or her employment, or being employed by a registered company leave that employment and enter the pest control business on his or her own behalf, he or she shall notify the registrar in writing, on a form prescribed by the board and issued by the registrar in accordance with rules and regulations adopted by the board. Whereupon the registrar shall register the change in his or her records.

SEC. 42. Section 8568 of the Business and Professions Code is amended to read:

8568. After a hearing the board may deny a license or a company registration unless the applicant makes a showing satisfactory to the board that the applicant, if an individual, has not, or if the applicant is a company applying for a company registration, that its manager and each of its officers, directors, employees, members and partners have not:

(a) Committed any act or crime constituting grounds for denial of licensure under Section 480.

(b) While unlicensed or not registered, knowingly committed or aided and abetted the commission of any act for which a license or company registration is required under this chapter.

(c) While acting as a partner, officer, managing employee, or

qualifying manager of a firm, partnership, or corporation, had knowledge of and participated in the commission of any act resulting in the suspension or revocation of a license or company registration.

When a hearing is held under this section it shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all of the powers granted therein.

SEC. 43. Section 8569 of the Business and Professions Code is amended to read:

8569. In addition to the partner or other individual designated as the qualifying manager for a registered company which is organized as a partnership, if any of the company's partners desire to actively engage in pest control on behalf of the partnership each shall be required to qualify for and to be licensed as an operator.

Nothing in this chapter shall prohibit any partner who is duly qualified and licensed in one or more of the branches of pest control designated in Section 8560, from representing the partnership in any other branch of pest control for which the partnership is registered, except that he or she may actively engage in pest control as an operator only in the branch for which he or she is qualified and licensed.

Upon being licensed as an operator, the other partner may engage in pest control only on behalf of the partnership of which he or she is a member, as long as he or she remains a partner thereof, but he or she may become associated with another partnership, or with a firm or corporation, in a capacity other than as a qualifying manager.

SEC. 44. Section 8570 of the Business and Professions Code is amended to read:

8570. In addition to the officer or other individual designated as the qualifying manager for a registered company which is organized as an association or corporation, if any of the company's other officers desire to actively engage in pest control in behalf of the association or corporation, each shall be required to qualify for and to be licensed as an operator.

Nothing in this chapter shall prohibit any officer of such corporation who is duly qualified and licensed in one or more of the branches of pest control designated in Section 8560, from representing the corporation in any other branch of pest control for which the corporation is registered, except that he or she may actively engage in pest control as an operator only in the branch for which he or she is qualified and licensed.

Upon being licensed as an operator, the officer may engage in pest control only on behalf of the association or corporation of which he or she is an officer, so long as he or she remains an officer thereof, but he or she may become associated with another association or corporation, or with a firm or partnership, in a capacity other than as a qualifying manager.

SEC. 45. Section 8571 of the Business and Professions Code is amended to read:

8571. If the licensed operator who is designated as the qualifying manager for a registered company ceases for any reason whatsoever to be connected with the company, the company shall notify the registrar in writing within 10 days from such cessation. If the notice is given the registration shall remain in force for a reasonable length of time, to be determined by rules of the board, during which period the company must submit to the registrar in writing the name of another qualified, or to be qualified, qualifying manager to replace the qualifying manager who has ceased to be connected with it, and who shall qualify as such within the time allowed by rules and regulations of the board.

If the company fails to notify the registrar within the 10-day period, or fails to replace with a qualifying manager within the period fixed by the regulations of the board, at the end of the period the registration shall be ipso facto suspended. The registration shall be reinstated upon the filing of an affidavit, executed by a representative of the company, and filed with the registrar, to the effect that the qualifying manager who ceased to be connected with the company has been replaced by another operator who is authorized by this chapter to act in such capacity, and that such operator has not had his or her license suspended or revoked or that he or she has not been connected with a company which has had its registration suspended or revoked.

SEC. 46. Section 8590 of the Business and Professions Code is amended to read:

8590. Except as otherwise provided herein, all licenses issued under the provisions of this chapter shall expire on June 30th of every third year.

Every operator and every field representative shall pay a fee for the renewal of his or her license.

The board shall on or before the first day of June of each year mail to each operator and field representative whose license will expire in such year, addressed to him or her at his or her last known address, a notice that his or her renewal fee is due and payable and that, if not paid by the 30th of June, a penalty will be added thereto.

In no case shall the penalty be waived.

Upon the receipt of the fee the board shall cause the renewal certificate to be issued.

SEC. 47. Section 8610 of the Business and Professions Code is repealed.

SEC. 48. Section 8610 is added to the Business and Professions Code, to read:

8610. Every company which engages in the practice of structural pest control, as a sole proprietorship, partnership, corporation, or other organization or any combination thereof, shall be registered with the Structural Pest Control Board. Each application for a company registration shall include the name of the company's owner if it is a sole proprietorship, the names of the partners, if it is a partnership, or the names of its officers, if it is a corporation, and the address of the company's principal office in this state.

Each registered company shall designate an individual or individuals who hold an operator's license to act as its qualifying manager or managers. The qualifying manager or managers must be licensed in each branch of pest control in which the company engages in business. The designated qualifying manager or managers shall supervise the daily business of the company and shall be available to supervise and assist all employees of the company, in accordance with regulations which the board may establish.

SEC. 49. Section 8611 is added to the Business and Professions Code, to read:

8611. Each branch office shall have a branch supervisor designated by the registered company to supervise and assist the company's employees who are located at that branch. The branch supervisor shall be an individual who is licensed by the board.

If a branch supervisor ceases for any reason to be connected with a registered company, the company shall notify the registrar in writing within 10 days from such cessation. If such notice is given the company's branch office registration shall remain in force for a reasonable length of time to be determined by rules of the board, during which period the company must submit to the registrar in writing the name of another qualified branch supervisor.

SEC. 50. Section 8612 of the Business and Professions Code is amended to read:

8612. The licenses of operators and company registrations shall be prominently displayed in the registered company's office, and no registration issued hereunder shall authorize the company to do business except from the location for which the registration was issued. Each registered company having a branch office or more than one branch office shall be required to display its branch office registration prominently in each branch office it maintains.

When registered company opens a branch office it shall notify the registrar in writing on a form prescribed by the board and issued by the registrar in accordance with rules and regulations adopted by the board. The notification shall include the name of the individual designated as the branch supervisor and shall be submitted with the fee for a branch office prescribed by this chapter.

SEC. 51. Section 8613 of the Business and Professions Code is amended to read:

8613. A registered company which changes the location of its principal office or any branch office or which changes its qualifying manager, branch supervisor, officers, or its bond or insurance shall notify the registrar in writing of such change within 30 days thereafter. A fee for filing such changes shall be charged in accordance with Section 8674.

SEC. 52. Section 8615 of the Business and Professions Code is amended to read:

8615. The certified copy fee required by this chapter shall accompany each request for certified copies made to the board pursuant to Section 8614. In return for such fee the board shall prepare and

transmit to the requester certified copies of all inspection reports and completion notices filed with the board on the subject property within the preceding two years, except that if a search of the board's records discloses that no inspection report or completion notice has been filed on the property within the preceding two years, the board shall retain the fee as a search fee.

The certified copy fee may be paid in stamps issued by the board in the denomination fixed by it pursuant to Section 8674. If the fee is so paid, the registered company requesting the certified copies shall affix to its request a stamp in the proper denomination. The board shall provide for the sale of such stamps and for the refund of moneys paid for stamps which are returned to it unused.

SEC. 53. Section 8616.5 of the Business and Professions Code is amended to read:

8616.5. (a) The county agricultural commissioner shall be the lead agency for inspections and routine investigations of pesticide use by the board licensees and registered companies. When a matter is referred to the board for action, the board shall be the lead agency and may require that the commissioner assist in any investigation.

(b) The board and the Director of Food and Agriculture shall jointly develop the list of the types of investigations to be conducted by the commissioner that may result in the suspension of a license or company registration, or the imposition of a fine, pursuant to Section 8617 and the list of the types of violations that the commissioner shall refer to the board for disciplinary action.

(c) As used in subdivision (a), the term "routine investigations" means all investigations of pesticide misuse by a board licensee or registered company except: (1) investigation of misuse incidents which are referred to the board for disciplinary action or which are the basis for county actions to suspend or fine structural pest control licensees or registered companies in accordance with the lists promulgated pursuant to subdivision (b), or (2) any investigation performed by the county agricultural commissioner which has been requested by the board and involves exclusively a violation of this code.

(d) 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. 54. Section 8617 of the Business and Professions Code is amended to read:

8617. (a) The board or county agricultural commissioners, when acting pursuant to Section 8616.4, may suspend the right of a structural pest control licensee or registered company to work in a county for up to three working days or may levy a fine up to five hundred dollars ($500) for each violation of this chapter, or any regulations adopted pursuant to this chapter, or Chapter 2 (commencing with Section 12751), Chapter 3 (commencing with Section 14001), Chapter 3.5 (commencing with Section 14101), or Chapter 7 (commencing with Section 15201) of Division 7 of the Food and Agricultural

Code, or any regulations adopted pursuant to those chapters, relating to economic poisons. Fines collected shall be paid to the Education and Enforcement Account in the Structural Pest Control Education and Enforcement Fund. Suspension may include all or part of the registered company's business within the county based on the nature of the violation, but shall, whenever possible, be restricted to that portion of a registered company's business in a county that was in violation.

(b) The licensee or registered company may appeal a fine or suspension to the Disciplinary Review Committee established in Section 8660 and shall be subject to the procedures in Section 8662.

(c) If a suspension or fine is ordered, it may not take effect until 20 days after the date of the decision if no appeal is filed. If an appeal pursuant to Section 8662 is filed, the order shall be stayed until 20 days after the committee has ruled on the appeal.

(d) Once final action pursuant to this section is taken, no other administrative or civil action may be taken by any state governmental agency for the same violation. However, action taken pursuant to this section may be used by the board as evidence of prior discipline, and multiple local actions may be the basis for statewide disciplinary action by the board pursuant to Section 8620. A certified copy of the order of suspension or fine issued pursuant to this section or Section 8662 shall constitute conclusive evidence of the occurrence of the violation.

(e) 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. 55. Section 8620 of the Business and Professions Code, as amended by Chapter 766 of the Statutes of 1984, is amended to read:

8620. The board may upon its own motion, and shall upon verified complaint in writing of any person, investigate the actions of any individual acting as, or making application for a license as, an operator or field representative.

After hearing, the board may temporarily suspend or permanently revoke a license issued under the provisions of this chapter if the holder, while a licensee or applicant, is guilty of or commits any one or more of the acts or omissions constituting grounds for disciplinary action. In addition to its authority to suspend or revoke a license, the board shall have the authority to assess a civil penalty as follows:

(a) Upon the conclusion of a hearing held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, if the proposed decision of the hearing officer is that the licensee is guilty of or has committed any one of the acts or omissions constituting grounds for disciplinary action, the proposed decision shall provide for the imposition of a suspension or for the revocation of the license. In such a case the board may impose the suspension or revocation. The board may also, in lieu of a suspension, assess a civil penalty. The licensee may express a preference for a form of discipline, but the board shall not be bound by any such

expression of preference.

If a licensee elects to stipulate to a disciplinary action prior to an administrative hearing, the board may impose a civil penalty, in accordance with the provisions of this section, in lieu of suspension.

If a proposed stipulation is rejected by the board, it shall be null and void and shall not constitute an admission of any violation charged.

(b) The civil penalty shall not be more than two thousand dollars ($2,000) for an actual suspension of one to 19 days.

(c) The civil penalty shall not be more than five thousand dollars ($5,000) for an actual suspension of 20 to 45 days.

(d) If a licensee is assessed the civil penalty in lieu of an actual suspension, the penalty shall be paid before the effective date of the decision.

(e) If the civil penalty is not paid before the effective date of the suspension, the license shall be suspended until the penalty is paid or until the actual suspension is served.

No civil penalty shall be assessed in lieu of any suspension which exceeds 45 days. With the exception of the proceedings on suspensions undertaken or on fines levied pursuant to Section 8617, the proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

In any order of suspension or revocation the board may authorize the completion of any contract or work contracted for under terms and conditions set forth in the order.

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 8620 of the Business and Professions Code, as amended by Section 1 of Chapter 289 of the Statutes of 1981, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 56. Section 8620 of the Business and Professions Code, as amended by Chapter 289 of the Statutes of 1981, is amended to read:

8620. The board may upon its own motion, and shall upon verified complaint in writing of any person, investigate the actions of any individual acting as, or making application for a license as, an operator or field representative.

After hearing, the board may temporarily suspend or permanently revoke a license issued under the provisions of this chapter if the holder, while a licensee or applicant, is guilty of or commits any one or more of the acts or omissions constituting grounds for disciplinary action. In addition to its authority to suspend or revoke a license, the board shall have the authority to assess a civil penalty as follows:

(a) Upon the conclusion of a hearing held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2

of the Government Code, if the proposed decision of the hearing officer is that the licensee is guilty of or has committed any one of the acts or omissions constituting grounds for disciplinary action, the proposed decision shall provide for the imposition of a suspension or for the revocation of the license. In such a case the board may impose the suspension or revocation. The board may also, in lieu of a suspension, assess a civil penalty. The licensee may express a preference for a form of discipline, but the board shall not be bound by any such expression of preference.

If a licensee elects to stipulate to a disciplinary action prior to an administrative hearing, the board may impose a civil penalty, in accordance with the provisions of this section, in lieu of suspension.

If a proposed stipulation is rejected by the board, it shall be null and void and shall not constitute an admission of any violation charged.

(b) The civil penalty shall not be more than two thousand dollars ($2,000) for an actual suspension of one to 19 days.

(c) The civil penalty shall not be more than five thousand dollars ($5,000) for an actual suspension of 20 to 45 days.

(d) If a licensee is assessed the civil penalty in lieu of an actual suspension, the penalty shall be paid before the effective date of the decision.

(e) If the civil penalty is not paid before the effective date of the suspension, the license shall be suspended until the penalty is paid or until the actual suspension is served.

No civil penalty shall be assessed in lieu of any suspension which exceeds 45 days. The proceedings under this article shall be conducted in accordance with Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

In any order of suspension or revocation the board may authorize the completion of any contract or work contracted for under terms and conditions set forth in the order.

SEC. 57. Section 8621 of the Business and Professions Code is amended to read:

8621. All complaints against licensees or registered companies shall be filed with the board within two years after the act or omission alleged as the ground for disciplinary action or, in the case of fraud, within four years after commission of the fraudulent act or omission. The board shall file any accusation within one year after the complaint has been filed with the board, except that with respect to an accusation alleging a violation of Section 8637, the accusation may be filed within two years after the discovery by the board of the alleged facts constituting the fraud or misrepresentation prohibited by the section.

SEC. 58. Section 8622 of the Business and Professions Code is amended to read:

8622. When a complaint is accepted for investigation of a registered company, the board, through an authorized representative

may inspect any or all properties on which a report has been issued pursuant to Section 8516 or a notice of completion has been issued pursuant to Section 8518 by such registered company to determine compliance with the provisions of this chapter and the rules and regulations issued thereunder. If the board determines such property or properties are not in compliance, a notice shall be sent to the registered company so stating. The registered company shall have 30 days from the receipt of the notice to bring such property into compliance, and it shall submit a corrected report or completion notice or both and an inspection fee of not more than one hundred twenty-five dollars ($125) for each property inspected. If a subsequent reinspection is necessary, pursuant to the board's review of the corrected report or notice or both, a commensurate reinspection fee shall also be charged. If the board's authorized representative makes no determination or determines the property is in compliance, no inspection fee shall be charged.

The notice sent to the registered company shall inform the registered company that if it desires a hearing to contest such finding of noncompliance, such hearing shall be requested by written notice to the board within 20 days of receipt of the notice of noncompliance from the board. Where a hearing is not requested pursuant to this section, payment of any assessment shall not constitute an admission of any noncompliance charged.

SEC. 59. Section 8624 of the Business and Professions Code is amended to read:

8624. If the board suspends or revokes an operator's license and one or more branch office is registered under the name of the operator, the suspension or revocation may be applied to each branch office.

If the operator is the qualifying manager, a partner, responsible officer, or owner of a registered structural pest control company, the suspension or revocation may be applied to the company registration.

The performance by any partnership, corporation, firm or association of any act or omission constituting a cause for disciplinary action, likewise constitutes a cause for disciplinary action against any licensee who at the time the act or omission occurred was the qualifying manager, a partner, responsible officer, or owner of the partnership, corporation, firm or association, whether or not he or she had knowledge of or participated in the prohibited act or omission.

SEC. 60. Section 8625 of the Business and Professions Code is amended to read:

8625. The lapsing or suspension of a license or company registration by operation of law or by order or decision of the board or a court of law, or the voluntary surrender of a license or company registration shall not deprive the board of jurisdiction to proceed with any investigation of or action or disciplinary proceeding against such licensee or company, or to render a decision suspending or revoking

such license or registration.

SEC. 61. Section 8632 of the Business and Professions Code is amended to read:

8632. The suspension or revocation of a license or a company registration as in this chapter provided may also be ordered in any action otherwise proper in any court involving the licensee's or a company's performance of a legal obligation as a licensee or registrant under this chapter.

SEC. 62. Section 8637 of the Business and Professions Code is amended to read:

8637. Misrepresentation of a material fact by the applicant in obtaining a license or company registration is a ground for disciplinary action.

SEC. 63. Section 8638 of the Business and Professions Code is amended to read:

8638. Failure on the part of a registered company to complete any operation or construction repairs for the price stated in the contract for such operation or construction repairs or in any modification of such contract is a ground for disciplinary action.

SEC. 64. Section 8639 of the Business and Professions Code is amended to read:

8639. Aiding or abetting an unlicensed individual or unregistered company to evade the provisions of this chapter or knowingly combining or conspiring with an unlicensed individual or unregistered company, or allowing one's license or company registration to be used by an unlicensed individual or unregistered company, or acting as agent or partner or associate, or otherwise, of an unlicensed individual or unregistered company to evade the provisions of this chapter is a ground for disciplinary action.

SEC. 65. Section 8640 of the Business and Professions Code is amended to read:

8640. Payment, or the offer to pay, by any licensee or registered company to any party to a real estate transaction of any commission, bonus, rebate, or other thing of value as compensation or inducement for the referral to such licensee or registered company of pest control work arising out of such transaction is a ground for disciplinary action.

SEC. 66. Section 8642 of the Business and Professions Code is amended to read:

8642. The commission of any grossly negligent or fraudulent act by the licensee as a pest control operator or field representative or by a registered company is a ground for disciplinary action.

SEC. 67. Section 8644 of the Business and Professions Code is amended to read:

8644. Fraud or misrepresentation, after inspection, by any licensee or registered company engaged in pest control work of any infestation or infection of wood-destroying pests or organisms found in property or structures, or respecting any conditions of the structure that would ordinarily subject structures to attack by wood-de-

stroying pests or organisms, whether or not a report was made pursuant to Sections 8516 and 8517 of this code, is a ground for disciplinary action.

SEC. 68. Section 8646.5 of the Business and Professions Code is amended to read:

8646.5. A notice of noncompliance shall be issued to a licensee or registered company whenever an authorized representative of the board finds that a pesticide application, fumigation or extermination procedure being performed by the licensee or registered company is not in compliance with applicable laws, rules, or regulations. Upon receiving such notice, the licensee or registered company shall discontinue such pest control work until the procedure is brought into compliance. Failure to discontinue after receiving a notice of noncompliance is a ground for disciplinary action.

SEC. 69. Section 8648 of the Business and Professions Code is amended to read:

8648. Authorizing, directing, conniving at or aiding in the publication, advertisement, distribution or circulation of any material by false statement or representation concerning a registered company's business is a ground for disciplinary action.

SEC. 70. Section 8649 of the Business and Professions Code is amended to read:

8649. Conviction of a crime substantially related to the qualifications, functions, and duties of a structural pest control operator, field representative, or registered company is a ground for disciplinary action. The certified record of conviction shall be conclusive evidence thereof.

SEC. 71. Section 8650 of the Business and Professions Code is amended to read:

8650. Acting in the capacity of a licensee or registered company under any of the licenses or registrations issued hereunder except:

(a) In the name of the licensee or registered company as set forth upon the license or registration, or

(b) At the address and location or place or places of business as licensed or registered or as later changed as provided in this chapter is a ground for disciplinary action.

SEC. 72. Section 8651 of the Business and Professions Code is amended to read:

8651. The performing or soliciting of structural pest control work or the inspecting for structural or household pests in branches of pest control other than those for which the operator or field representative is licensed or the company is registered is a ground for disciplinary action.

SEC. 73. Section 8652 of the Business and Professions Code is amended to read:

8652. Failure of a registered company to make and keep all inspection reports, contracts, documents, and records, other than financial records, for a period of not less than two years after completion of any work or operation for the control of structural

pests or organisms, is a ground for disciplinary action. Such records shall be made available to the registrar during business hours.

SEC. 74. Section 8653 of the Business and Professions Code is amended to read:

8653. The failure of any registered company or agent or officer thereof, to pay any moneys due for any materials or services rendered in connection with its operations as a registered pest control company, when it has the ability to pay or when it has received sufficient funds therefor as payment for the particular pest control work, project, or operation for which the services or materials were rendered or purchased, is a ground for disciplinary action, as is the false denial of any such indebtedness or of the validity of the claim thereof with intent to secure for itself, or other person any discount upon such indebtedness or with intent to hinder, delay, or defraud the person to whom such indebtedness is due.

SEC. 75. Section 8654 of the Business and Professions Code is amended to read:

8654. Any individual who has been denied a license for any of the reasons specified in Section 8568, or who has had his or her license revoked, or whose license is under suspension, or who has failed to renew his or her license while it was under suspension, or who has been a member, officer, director, associate, qualifying manager, or responsible managing employee of any partnership, corporation, firm, or association whose application for a company registration has been denied for any of the reasons specified in Section 8568, or whose company registration has been revoked as a result of disciplinary action, or whose company registration is under suspension, and while acting as such member, officer, director, associate, qualifying manager, or responsible managing employee had knowledge of or participated in any of the prohibited acts for which the license or registration was denied, suspended or revoked, shall be prohibited from serving as an officer, director, associate, partner, qualifying manager, or responsible managing employee of a registered company, and the employment, election or association of such person by a registered company is a ground for disciplinary action.

SEC. 76. Section 8655 of the Business and Professions Code is amended to read:

8655. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a structural pest control operator, field representative, or registered company is deemed to be a conviction within the meaning of this article or Section 8568 of this chapter. The board may order the license or registration suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such individual or registered company to withdraw a plea of guilty and to

enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

SEC. 77. Section 8657 of the Business and Professions Code is amended to read:

8657. The appointment of a receiver of the property of a licensee or registered company as provided in Chapter 5 (commencing with Section 564) of Title 7 of Part 2 of the Code of Civil Procedure, or the making of an assignment for the benefit of creditors, constitutes a cause for disciplinary action.

If a license or registration is suspended or revoked upon the grounds set forth in this section, the registrar in his or her discretion may renew or reissue such license upon the condition that each contract undertaken by the licensee or registered company be separately covered by a bond or bonds conditioned upon the performance of, and the payment of labor and material required by, the contract.

SEC. 78. Section 8662 of the Business and Professions Code is amended to read:

8662. (a) Whenever the right of a structural pest control licensee or registered company to make pesticide applications has been suspended or the licensee or registered company has been fined pursuant to Section 8617, the party suspended or fined may appeal to the Disciplinary Review Committee within 10 days of receipt of the fine or suspension order.

(b) The following procedures shall apply to the appeal:

(1) The appeal need not be formal, but it shall be in writing and signed by the appellant or his or her or its authorized agent, and shall state the grounds for the appeal.

(2) Any party may, at the time of filing the appeal or within 10 days thereafter, present written evidence to the committee. Thereafter, 10 days shall be given the parties to rebut the written evidence and make written application to the committee to present oral or written arguments.

(3) An application to present written arguments shall be granted, but the committee shall have discretion to grant oral arguments or to grant both oral and written arguments. Further written argument shall be submitted to the committee within 10 days of the submission of the application.

(4) If an application to present an oral argument is granted, written notice of the time and place for the oral argument shall be given each party at least 10 days before the date set therefor. The times may be altered by mutual agreement of the parties. If a written argument is submitted, all parties shall be notified thereof and shall be given the opportunity to simultaneously file briefs within the time specified by the committee.

(5) At any time written evidence, including evidence in rebuttal, is submitted to the committee, a copy shall be immediately provided to the other party.

(6) The committee shall decide the appeal on any oral or written

argument, briefs, and evidence that the committee may have received.

(7) The committee shall render its written decision within 45 days of the date of appeal or within 15 days from the date of oral arguments or the filing of briefs pursuant to paragraph (4). If the committee does not reach a decision in the time required in this subdivision, the order issued pursuant to Section 8617 shall be null and void.

(8) On an appeal pursuant to this section, the committee may sustain, modify by reducing the time of suspension or the amount of the fine levied, or reverse the decision. A copy of the committee's decision shall be delivered or mailed to each party.

(9) Review of the decision of the committee may be sought by the licensee or registered company pursuant to Section 1094.5 of the Code of Civil Procedure.

(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 enacted before January 1, 1987, deletes or extends that date.

SEC. 79. Section 8671 of the Business and Professions Code is amended to read:

8671. As used in this chapter, "renewal operator's license" means a license issued to an individual who had an operator's license unrevoked and unsuspended on June 30th of the preceding renewal period.

SEC. 80. Section 8673 of the Business and Professions Code is amended to read:

8673. License fees shall not be prorated. All license and registration fees shall be paid in advance of the issuance of the license or registration, and all examination fees shall be paid in advance of the examination.

SEC. 81. Section 8674 of the Business and Professions Code, as amended by Chapter 766 of the Statutes of 1984, is amended to read:

8674. The amount of the fees prescribed by this chapter is that fixed by the following schedules.

(a) A duplicate license fee of not more than two dollars ($2).

(b) A fee for filing a change of name of a licensee of not more than two dollars ($2).

(c) An operator's examination fee of not more than twenty-five dollars ($25).

(d) An operator's license fee of not more than one hundred fifty dollars ($150).

(e) An operator's license renewal fee of not more than one hundred fifty dollars ($150).

(f) A company registration fee of not more than one hundred twenty dollars ($120). Fees for company registrations shall be prorated for companies which held principal office registrations as of January 1, 1987.

(g) A branch office registration fee of not more than sixty dollars ($60).

(h) A field representative examination fee of not more than fif-

teen dollars ($15).

(i) A field representative license fee of not more than forty-five dollars ($45).

(j) A field representative license renewal fee of not more than forty-five dollars ($45).

(k) An applicator examination fee of not more than fifteen dollars ($15).

(*l*) An inspection report filing fee of not more than three dollars ($3).

(m) A fee for certifying a copy of an inspection report of not more than three dollars ($3).

(n) A fee for filing a notice of work completed of not more than two dollars ($2).

(o) A fee for filing a change of a registered company's name, principal office address, or branch office address, qualifying manager, or the names of a registered company's officers, or bond or insurance of not more than twenty-five dollars ($25) for each change.

(p) A fee for approval of continuing education providers of not more than fifty dollars ($50).

(q) A pesticide use report filing fee of not more than five dollars ($5) for each pesticide use report or combination of use reports representing a structural pest control operator's total county pesticide use for the month.

(r) A fee for approval of continuing education courses of not more than twenty-five dollars ($25).

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 8674 of the Business and Professions Code, as amended by Section 10 of Chapter 360 of the Statutes of 1981, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 82. Section 8674 of the Business and Professions Code, as amended by Chapter 360 of the Statutes of 1981, is amended to read:

8674. The amount of the fees prescribed by this chapter is that fixed by the following schedules.

(a) A duplicate license fee of not more than two dollars ($2).

(b) A fee for filing a change of name of a licensee of not more than two dollars ($2).

(c) An operator's examination fee of not more than twenty-five dollars ($25).

(d) An operator's license fee of not more than one hundred fifty dollars ($150).

(e) An operator's license renewal fee of not more than one hundred fifty dollars ($150).

(f) A company registration fee of not more than one hundred twenty dollars ($120). Fees for company registrations shall be prorated for companies which held principal office registrations as of the

effective date of this section.

(g) A branch office registration fee of not more than sixty dollars ($60).

(h) A field representative examination fee of not more than fifteen dollars ($15).

(i) A field representative license fee of not more than forty-five dollars ($45).

(j) A field representative license renewal fee of not more than forty-five dollars ($45).

(m)

(k) An applicator examination fee of not more than fifteen dollars ($15).

(*l*) An inspection report filing fee of not more than three dollars ($3).

(m) A fee for certifying a copy of an inspection report of not more than three dollars ($3).

(n) A fee for filing a notice of work completed of not more than two dollars ($2).

(o) A fee for filing a change of a registered company's name, principal office address, or branch office address, qualifying manager, or the names of a registered company's officers, or bond or insurance of not more than twenty-five dollars ($25) for each change.

(p) A fee for approval of continuing education providers of not more than fifty dollars ($50).

(q) A fee for approval of continuing education courses of not more than twenty-five dollars ($25).

SEC. 83. Section 8675 of the Business and Professions Code is amended to read:

8675. The fee for a renewal of any license issued under this chapter applied for after the expiration date of the license shall be 50 percent of the fee required for the renewal of such license applied for before such expiration date but not more than twenty-five dollars ($25).

SEC. 84. Section 8690 of the Business and Professions Code is amended to read:

8690. The board shall not issue any company registration under this chapter unless the applicant shall have filed with the board on a form approved by the board written evidence of an insurance policy approved by the board or a bond as specified in this article, being in effect at the time of the issuance of the company registration. Such written evidence shall include a provision that the board shall be given a ten (10) day notice by the insurance company or bonding company should the policy or bond be canceled or changed during the policy or bond period in such a manner as to affect the written evidence.

SEC. 85. Section 8690.5 of the Business and Professions Code is repealed.

SEC. 86. Section 8691 of the Business and Professions Code is amended to read:

8691. No registered company shall engage in any of the practices for which it is required to be registered by this chapter unless it maintains such insurance policy or bond as specified in this article.

SEC. 87. Section 8692 of the Business and Professions Code is amended to read:

8692. An "insurance policy" as used in this article means a contract of liability insurance issued by an insurance company authorized to transact business in this state or one issued by a nonadmitted carrier whose activities in this state are controlled by the Surplus Line Association, which insures the policyholder against loss from legal liability for damages on property upon which work is being performed or has been completed, including third party losses, as a result of an accident or occurrence due to participation in any control, prevention, or repair activities which require a license under this chapter. The insurance policy shall provide minimum limits of twenty-five thousand dollars ($25,000) for any one loss due to bodily injury, sickness or disease, including death at any time resulting therefrom, sustained by any person or persons, and twenty-five thousand dollars ($25,000) minimum for any one loss due to injury or destruction of property, including the loss of use thereof.

This section shall not be construed to require errors and omissions insurance for all activities relating to or during inspections, inspection reports, recommendations, estimates, and bids, whether oral or written.

SEC. 88. Section 8693 of the Business and Professions Code is amended to read:

8693. In lieu of the insurance policy specified in this article an applicant for a company registration may file with the board a bond executed by an admitted surety insurer in the penalty of twenty-five thousand dollars ($25,000) with the State of California as obligee.

SEC. 89. Section 8694 of the Business and Professions Code is repealed.

SEC. 90. Section 8695 of the Business and Professions Code is amended to read:

8695. The violation of any provision of this article is a misdemeanor and shall be grounds for the suspension or revocation by the board of the operator's license of the owner or qualifying manager or managers of the registered company and of the company registration.

SEC. 91. Section 8697 of the Business and Professions Code is amended to read:

8697. Each operator licensed under the provisions of this chapter, except an operator who is an employee of another operator, shall maintain a bond executed by an admitted surety insurer in the amount of four thousand dollars ($4,000).

SEC. 91.5. Section 8697 of the Business and Professions Code is amended to read:

8697. Each company registered under the provisions of this chapter shall maintain a bond executed by an admitted surety insurer in

the amount of four thousand dollars ($4,000).

SEC. 92. Section 8697.1 of the Business and Professions Code is repealed.

SEC. 93. Section 8697.2 of the Business and Professions Code is amended to read:

8697.2. The bonds required by this article shall be in favor of the State of California for the benefit of any person who, after entering into a contract with a registered company, is damaged by fraud or dishonesty of the registered company in the performance of the contract, or any person who is damaged as a result of a violation of this chapter by the registered company.

SEC. 94. Section 8697.3 of the Business and Professions Code is amended to read:

8697.3. If, after a hearing conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, a license or company registration is suspended or revoked upon the grounds set forth in Article 7 (commencing with Section 8620) of this chapter, the registrar shall require the applicant, licensee, or registered company, as a condition to the issuance, reissuance, or restoration of the license or company registration, to file a surety bond in the sum to be determined by the registrar based upon the seriousness of the violation, but which sum shall not be less than one thousand dollars ($1,000) nor more than eight thousand dollars ($8,000).

The bond required by this section shall be in addition to the bond required by Section 8697 of this article.

Each applicant, licensee, or registered company required to maintain a bond of the type provided in this section shall post such bond with the registrar for a period of at least two years and during such additional time as there may be unsatisfied claims outstanding against the same.

SEC. 95. Section 8697.4 of the Business and Professions Code is amended to read:

8697.4. Upon failure of a licensee or registered company to maintain in full force and effect any bond required by this article the registrar shall issue an order suspending or revoking the license or company registration, which shall not be reinstated until a new bond is filed.

SEC. 96. The amendment of Section 8692 of the Business and Professions Code made at the 1985–86 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the existing law.

SEC. 97. (a) Sections 1, 29, 34, 37, 81, 87, and 91 of this act shall become operative on January 1, 1986.

(b) Sections 2 to 28, inclusive, 30 to 33, inclusive, 35 to 36, inclusive, 38 to 80, inclusive, 82 to 86, inclusive, 88 to 90, inclusive, 91.5 to 95, inclusive, of this act shall become operative on January 1, 1987.

SEC. 98. 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 1349

An act to add Section 18496.1 to, and to repeal and add Section 18521.5 of, the Financial Code, relating to industrial loan companies, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 18496.1 is added to the Financial Code, to read:

18496.1. (a) A director, officer, employee, or agent of Thrift Guaranty Corporation shall be subject to liability for acts of fraud, willful misconduct, or reckless or criminal acts arising out of, or in connection with, the performance of his or her duties on behalf of Thrift Guaranty Corporation, but shall not be subject to liability or causes of action for acts other than those set forth in this section.

(b) The board of directors shall exercise reasonable efforts to obtain directors, officers, employees, and agents, errors and omissions liability insurance coverage and shall within 30 days from the end of each fiscal year submit to the commissioner its reports, advising the commissioner of the terms and costs of such coverage, if available.

SEC. 2. Section 18521.5, as added to the Financial Code by Chapter 142 of the Statutes of 1985, is repealed.

SEC. 3. 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, have its outstanding thrift obligations insured or guaranteed by Thrift Guaranty Corporation, 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; however, each industrial loan company shall, as a condition of its authority to continue to conduct business under this division, continue to participate as a member or a special member as defined in Section 18476, in Thrift Guaranty Corporation in accordance with this chapter and rules established by the Board of Directors of Guaranty Corporation until it has paid assessments

required by Section 18537.

(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 in a successor corporation to Thrift Guaranty Corporation created by its members, having the power and authority of its predecessor as set forth in this division, which is not an instrumentality of the State of California and for which the state is not responsible or liable in case of any losses occasioned by actions of the corporation, and which shall obtain and maintain insurance for its fund, or participate in a group insurance contract for the thrift obligations of its members, either of which insurance plans shall be approved by the commissioner; or be insured by a private insurer, surety, or guarantee company or companies 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.

(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) In addition to any other provision of this section, if during that period of time ending July 1, 1990, the United States Congress or the Board of Governors of the Federal Reserve System adopt or amend a law or regulations which pertain to an industrial loan company applying for and obtaining membership in the Federal Deposit Insurance Corporation, and the new federal law or regulations prevent an industrial loan company from obtaining Federal Deposit Insurance Corporation coverage solely because the company's holding company status prevents Federal Deposit Insurance Corporation membership, a successor to the Thrift Guaranty Corporation approved by the commissioner, or some other institutional mechanism approved by the commissioner, which obtains insurance in accordance with this subdivision, may continue to discharge its function so long as the insurance remains in effect.

(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. 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:

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 1350

An act to add Section 131.1 to, and to add Chapter 14 (commencing with Section 2550) to Division 3 of, the Streets and Highways Code, and to add Sections 2421.5 and 9250.10 to the Vehicle Code, relating to streets and highways.

[Approved by Governor September 30, 1985. Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 131.1 is added to the Streets and Highways Code, to read:

131.1. Upon the request of any Service Authority for Freeway Emergencies that has imposed additional fees on vehicles pursuant to Section 9250.10 of the Vehicle Code, the department may contract with the authority for the installation, operation, and maintenance of emergency call boxes on portions of the California Freeway and Expressway System within the county. The service authority shall reimburse the department for all costs incurred under this section.

SEC. 2. Chapter 14 (commencing with Section 2550) is added to Division 3 of the Streets and Highways Code, to read:

CHAPTER 14. SERVICE AUTHORITY FOR FREEWAY EMERGENCIES

2550. A Service Authority for Freeway Emergencies may be established in any county if the board of supervisors of the county and a majority of the cities within the county having a majority of the population adopt resolutions providing for the establishment of the authority.

2551. An authority established under this section shall have 7 members, with 2 members selected by the board of supervisors and 5 members selected jointly by the affected cities.

2552. The authority may contract and may undertake any act convenient or necessary to carry out this chapter and any other law relating to the authority.

2553. Any authority established under this chapter may impose a fee, not to exceed one dollar ($1) per year, on vehicles registered in the county pursuant to Section 9250.10 of the Vehicle Code.

2554. The moneys received by each authority pursuant to subdivision (b) of Section 9250.10 of the Vehicle Code shall be used for the implementation, maintenance and operation of an emergency motorist aid system, including, but not limited to, emergency call boxes and emergency mechanical service patrols on the portions of the California Freeway and Expressway System located within the county in which the authority is established. The Department of Transportation and the Department of the California Highway Patrol shall each review and approve plans for implementation of an emergency motorist aid system proposed for any state highway route and shall be reimbursed by the service authority for all costs incurred.

An authority may construct and maintain the facilities of an emergency motorist aid system or it may contract with a private person or entity to do so.

2555. Any service authority may, pursuant to Chapter 6 (commencing with Section 54300) of Division 2 of Title 5 of the Government Code, issue revenue bonds for the purposes of this chapter and pledge revenues to be received from the fees.

SEC. 3. Section 2421.5 is added to the Vehicle Code, to read:

2421.5. When any Service Authority for Freeway Emergencies has imposed additional fees on vehicles pursuant to Section 2553 of the Streets and Highways Code, the department shall answer calls and provide central dispatching services for the system on the portions of the California Freeway and Expressway System within the county. The department shall determine and authorize the service providers eligible to participate in the system. The service authority shall reimburse the department for all costs incurred under this section.

SEC. 4. Section 9250.10 is added to the Vehicle Code, to read:

9250.10. (a) In addition to any other fees specified in this code and the Revenue and Taxation Code, any additional fees imposed by a Service Authority for Freeway Emergencies pursuant to Section 2553 of the Streets and Highways Code shall be paid to the department at the time of registration or renewal of registration of every vehicle subject to registration under this code in the subject counties, except those vehicles that are expressly exempted under this code from the payment of registration fees.

(b) After deducting its administrative costs, the department shall distribute the additional fees collected pursuant to subdivision (a) to the authority in the county in which they were collected.

CHAPTER 1351

An act to amend Sections 33763 and 33766 of the Health and Safety Code, relating to housing.

[Approved by Governor September 30, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 33763 of the Health and Safety Code is amended to read:

33763. (a) No loan shall be made for financing except through a qualified mortgage lender.

(b) All mortgage loans made for financing pursuant to this chapter from the proceeds of bonds issued on or before October 1, 1983, shall be insured or guaranteed, in whole or in part, by any instrumentality of the United States, or the State of California, or by any person licensed to insure mortgages in this state. Mortgage loans made for financing pursuant to this chapter from the proceeds of bonds issued after October 1, 1983, may be insured or guaranteed, in whole or in part by those entities or persons. However, nothing in this subdivision shall impair any contractual rights which may have vested in bondholders or other persons prior to October 1, 1983.

SEC. 2. Section 33766 of the Health and Safety Code is amended to read:

33766. Revenues and the proceeds of mortgage insurance or guarantee claims, if any, shall be the sole source of funds pledged by an agency for repayment of its revenue bonds. Revenue bonds issued under this chapter do not constitute a debt or liability of the agency or the state for which the faith and credit of the agency or the state is pledged but shall be payable solely from revenues and the proceeds of mortgage insurance or guarantee claims, if any.

CHAPTER 1352

An act to amend Sections 4075 and 4076 of, and to add Section 5705.6 to, the Welfare and Institutions Code, relating to mental health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1985. Filed with Secretary of State October 1, 1985]

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

SECTION 1. The Legislature finds as follows:

(a) The patient population in private residential care facilities for

the mentally disordered has changed dramatically over recent years. Where previously the majority of such patients were in their 50's, the majority are now in their 30's, and likely to be more active and violent with problems of alcohol or drug addiction and behavior control.

(b) Rates set for private residential care facilities for the mentally disordered are insufficient to assure adequate treatment of patients' programmatic needs because the rate structure is not based on such needs.

(c) Due to such insufficient payments, operators of private residential care facilities are not given any incentive to serve the more severely disturbed, and it is difficult to recruit sufficient private residential care facilities.

(d) Due to lack of incentive to serve the mentally disordered, the number of residential care facilities serving such persons has decreased rapidly in recent years. At the same time, research reports document a significant increase in the number of homeless persons, many of them mentally disordered.

(e) The homeless mentally disordered have become significant burdens on local governments and charitable relief organizations whose resources are overwhelmed by the number of persons requiring emergency food and shelter. Lack of access by mentally disordered homeless persons to necessities such as shelter, food, medical care, and mental health treatment represents a threat to their health and safety. Businesses and local economies are also impacted by the presence of homeless mentally disordered persons who do not have access to these necessities.

SEC. 2. Section 4075 of the Welfare and Institutions Code is amended to read:

4075. The department shall establish and maintain an equitable system of payment for the special needs of mentally disordered persons in private residential care facilities for the mentally disabled as follows:

(a) The department shall establish the rates of payment which shall be based on the functional ability and programmatic needs of clients. By July 1, 1987, the department shall establish a standardized assessment tool and client monitoring system for counties to use in determining the functional ability and programmatic needs of mentally disordered clients pursuant to this chapter.

(b) No later than October 1, 1985, the department shall adopt regulations as are necessary to establish eligibility criteria for private residential care facilities, including, but not limited to, training and educational requirements for facility operators and staff and ability to meet specified special needs of clients.

(c) By July 1, 1980, and each year thereafter, the department shall establish rates. Such rates shall annually be proposed to the Legislature by March 1 and shall be operative on July 1 of each year. In recommending funds to be appropriated, the department shall include actual caseload numbers, case estimates, and separate county

and state administrative costs which shall be separately identified from the rates established by the department under this section. These rates shall include, but not be limited to, each of the cost elements in this section as follows:

(1) Rates established for all facilities shall include an adequate amount to care for "basic living needs" of a mentally disordered person. "Basic living needs" are defined to include housing (shelter, utilities, and furnishings), food, and personal care. These amounts shall be adjusted annually to reflect cost-of-living changes. A redetermination of basic living costs shall be undertaken every three years by the State Department of Mental Health using the best available estimating methods.

(2) To the extent applicable, rates established for facilities shall include a reasonable amount for "unallocated services." Such costs shall be determined using generally accepted accounting principles. "Unallocated services" means the indirect costs of managing a facility and includes costs of managerial personnel, facility operation, maintenance and repair, employee benefits, taxes, interest, insurance, depreciation, and general and administrative support. If a facility serves other persons in addition to mentally disordered persons, unallocated services expenses shall be reimbursed under the provision of this section, only for the proportion of the costs associated with the care of mentally disordered persons.

(3) Rates established for facilities shall include an amount to reimburse facilities for the depreciation of "mandated capital improvements and equipment" as established in the state's uniform accounting manual. For purposes of this section, "mandated capital improvements and equipment" are only those remodeling and equipment costs incurred by a facility because an agency of government has required such remodeling or equipment as a condition for the use of the facility as a provider of care to mentally disordered persons.

(4) To the extent applicable, rates established for all facilities shall include as a "factor" an amount to reflect differences in the cost of living for different geographic areas in the state.

(5) Rates established for facilities shall include an amount for supervision where the functional ability or programmatic needs of residents require augmented supervisory staff.

(6) Rates of payment for private residential care facilities shall be established in such ways as to assure the maximum utilization of all federal and other sources of funding, to which mentally disordered persons are legally entitled, prior to the commitment of state funds for such purposes.

(d) Notwithstanding any other provision of law, the rates established under this section shall be equal to the rates established by the State Department of Developmental Services for equivalent categories on July 1, 1985, of regional center clients in private residential care facilities for the developmentally disabled, until the time, but in no case later than July 1, 1987, the department has

established the assessment tool required under subdivision (a). However, in no case shall the rates established under this section be less than the rates paid for equivalent categories of regional center clients which were in effect on July 1, 1985.

(e) County and state administrative costs shall be separately identified from the rates established by the department under this section.

SEC. 3. Section 4076 of the Welfare and Institutions Code is amended to read:

4076. Each county shall apply for the adjusted rates and county administrative costs established under this chapter as part of the Short-Doyle plan pursuant to Section 5651 or a negotiated net amount contract by the state and county. However, notwithstanding Section 5705, no county matching funds are required under this section for fiscal years 1985–86 and 1986–87.

SEC. 4. Section 5705.6 is added to the Welfare and Institutions Code, to read:

5705.6. In addition to the waiver provided for in Section 5705.4, for 1985–86 and 1986–87 fiscal years, the cost requirement for local financial participation pursuant to Section 5705, including county administrative costs, shall be waived for supplemental rates of payment for residential care facilities for the mentally disordered pursuant to Section 4076.

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:

Due to the urgency of providing an adequate reimbursement rate structure for private residential care facilities and encouraging such facilities to serve mentally disabled persons, and meeting the shelter needs of mentally disordered persons whose homelessness is a threat to their health and safety and, in some cases, to public safety, and to provide a vital component of local Short-Doyle programs, it is necessary that this act take effect immediately.

CHAPTER 1353

An act relating to domestic water supply systems, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1985 Filed with Secretary of State October 1, 1985.]

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

SECTION 1. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Strathmore Public Utilities District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 2. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Lemon Cove Sanitary District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 3. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Tulare County Service Area No. 1 for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 4. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Oroville-Wyandotte Irrigation District (Bangor Water System) for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 5. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Monterey County Service Area No. 73 (Bay Farms-Hillcrest) for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 6. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Tulare County-Sequoia Dawn-Springville Water System for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 7. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Tulare County Service Area No. 2 for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 8. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to Tulare County (Balch Park) for the

purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 9. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the West San Bernardino County Water District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 10. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Occidental Community Services District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 11. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Ballico Community Services District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 12. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Sequoia Dawn, Springville Water System for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 13. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Placer County Water Agency (Cape Horn) for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 14. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Placer County Water Agency (Central Eden Valley) for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 15. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Placer County Water Agency (Dutch Flat Terrace) for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 16. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Placer County Water Agency (Rock

Crest) for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 17. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Union Public Utility District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 18. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to San Mateo County (Pescadero Water District) for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 19. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Santa Nella County Water District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 20. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Junction Elementary School District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 21. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Imperial Community College District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 22. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Cappell Creek Indian Water Association for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 23. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Hoopa Indian Reservation Extension (Upper Pecwan) for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 24. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Timber Cove County Water District for the purpose of improving its domestic water supply system to

meet, at a minimum, safe drinking water standards.

SEC. 25. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Feather River Canyon Community Services District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 26. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the City of Tulelake for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 27. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Truckee-Donner Public Utility District (Hirschdale Assessment District) for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 28. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Ventura County Waterworks District No. 19 for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 29. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Williams Tract County Water District No. 2 for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 30. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Tuolumne Regional Water District (Cedar Rock) for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 31. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the El Dorado Irrigation District (Rickwalt) for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 32. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Weott Community Services District for the purpose of improving its domestic water supply system to

meet, at a minimum, safe drinking water standards.

SEC. 33. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Williams Tract County Water District No. 1 for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 34. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Sawyers Bar County Water District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 35. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Weaverville Community Services District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 36. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Contra Costa County Water District (Castle Rock Area) for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 37. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Contra Costa County Water District (North Gate Area) for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 38. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Nevada Irrigation District (Willaura Acres System) for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 39. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Willow Creek Community Services District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 40. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the El Nido School District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 41. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the San Mateo County Service Area No. 7 for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 42. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Oroville-Wyandotte Irrigation District (Community Line) for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 43. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Clio Public Utility District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 44. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Loomis Union School District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 45. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Tennant Community Services District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 46. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Cache Creek Regional Park for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 47. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Nevada Irrigation District (Joeger Road Extension) for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 48. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Delhi County Water District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 49. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Tuolumne Regional Water District (Columbia) for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 50. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Tuolumne Regional Water District (Section V Ditch) for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 51. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the El Dorado Irrigation District (Pleasant Oak Main) for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 52. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the La Honda Pescadero Unified School District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 53. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Sutter County Public Works Department (Robbins Water System) for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 54. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the City of Escalon for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 55. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Donner Summit Public Utility District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 56. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Happy Camp Community Services District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 57. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Bodega Water District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 58. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Fort Ross School District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 59. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the City of Brentwood for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 60. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Oakley Water District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 61. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Keswick Community Services District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 62. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Klamath Trinity Joint Unified School District (Jack Norton School) for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 63. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to San Mateo County (Sheriff's Honor Camp) for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 64. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Monterey Park Tract Community Services District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 65. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Bridgeville School District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 66. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Midway Height Community Water District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 67. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Santa Clara Elementary School District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 68. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to Tuolumne County (East Sonora Ditch) for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 69. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the El Dorado Irrigation District (Diamond Springs Main) for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 70. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Russian River County Water District (Rio Dell Water System) for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 71. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Russian River County Water District (Russian River Terrace Water System) for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 72. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Yuba County Water District for the

purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 73. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Humboldt Bay Municipal Water District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 74. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Shasta Dam Area Public Utility District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 75. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the City of Trinidad for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 76. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to Stanislaus County (Department of Transportation) for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 77. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Westley Community Services District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 78. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Casitas Municipal Water District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 79. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the San Luis Obispo Community Services Area No. 19 (Heritage Ranch) for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 80. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the City of Willits for the purpose of

improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 81. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the River Delta School District (Clarksburg Elementary School) for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 82. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Hesperia Water District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 83. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Riverdale Park Tract Community Services District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 84. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Lake Don Pedro Community Services District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 85. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Sierraville Public Utility District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 86. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Turlock Irrigation District (La Grange) for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 87. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Mt. Shasta Hatchery Domestic Water System (Spring Creek) for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 88. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section

13819 of the Water Code to the Congress Community Water District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 89. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to the Lindsay-Strathmore Irrigation District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 90. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13819 of the Water Code to Contra Costa County (Service Area M-25—Knightsen) for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards.

SEC. 91. The Department of Water Resources shall determine eligibility for the grants authorized in Sections 1 to 12, inclusive, in accordance with the California Safe Drinking Water Bond Law of 1984 (Chapter 10.2 (commencing with Section 13810) of Division 7 of the Water Code) and may make those grants in accordance with the bond law.

SEC. 92. The Legislature hereby finds and declares that in order to meet the minimum safe drinking water standards there are critical needs within the entities identified in Sections 1 to 90, inclusive, to immediately undertake certain improvements necessary to enable residents of those communities to have a dependable and potable water supply.

SEC. 93. The Legislature further finds and declares that the water systems of the entities identified in Sections 1 to 90, inclusive, have critical deficiencies in the areas of treatment, storage, and distribution which pose a serious threat to the public health and welfare of all consumers within those communities and that each entity is only barely meeting the demand for water within the community.

SEC. 94. This act is an urgency statute necessary for the immediate preservation of 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 grants from the California Safe Drinking Water Fund to the entities identified in this act to resolve the critical water supply problems of those communities at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1354

An act to amend Sections 13211, 14000, 14001.1, 14005.1, 14011, 14016.9, 14023, 14050.1, 14051, and 14105 of, to amend and renumber Section 14016.2 of, to add Sections 14005.2, 14005.4, 14017.8, 14052, and 14052.1 to, and to repeal Sections 14005.4, 14016.7, 14018.2, 14052, 14111, and 14121 of, the Welfare and Institutions Code, and to amend Section 2 of Chapter 1352 of the Statutes of 1984, relating to the medical assistance program.

[Approved by Governor September 30, 1985. Filed with Secretary of State October 1, 1985.]

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

SECTION 1. Section 13211 of the Welfare and Institutions Code is amended to read:

13211. A refugee covered by this chapter shall not be eligible for the provision of aid under Chapter 2 (commencing with Section 11200). A refugee aided under this chapter shall be eligible for medical assistance under the Refugee Resettlement Program, to the extent provided under federal law.

SEC. 2. Section 14000 of the Welfare and Institutions Code is amended to read:

14000. The purpose of this chapter is to afford to qualifying individuals health care and related remedial or preventive services, including related social services which are necessary for those receiving health care under this chapter.

The intent of the Legislature is to provide, to the extent practicable, through the provisions of this chapter, for health care for those aged and other persons, including family persons who lack sufficient annual income to meet the costs of health care, and whose other assets are so limited that their application toward the costs of such care would jeopardize the person or family's future minimum self-maintenance and security. It is intended that whenever possible and feasible:

(a) The means employed shall be such as to allow, to the extent practicable, eligible persons to secure health care in the same manner employed by the public generally, and without discrimination or segregation based purely on their economic disability.

(b) The benefits available under this chapter shall not duplicate those provided under other federal or state laws or under other contractual or legal entitlements of the person or persons receiving them.

(c) In the administration of this chapter and in establishing the means to be used, the department shall give due consideration both to the appropriate organization and to the ready accessibility and availability of the facilities and resources for health care to persons

eligible under this chapter, and to new and innovative approaches to the delivery of health care services.

SEC. 3. Section 14001.1 of the Welfare and Institutions Code is amended to read:

14001.1. It is the intention of the Legislature, whenever feasible, that the needs of categorically needy persons for health care and related remedial or preventive services be met under the provisions of this chapter.

SEC. 4. Section 14005.1 of the Welfare and Institutions Code is amended to read:

14005.1. Except for adults receiving aid pursuant to Chapter 2 (commencing with Section 11200) and for whom federal financial participation would not be obtainable for their medical costs under Title XIX of the federal Social Security Act, categorically needy persons are eligible for health care services under Section 14005.

SEC. 5. Section 14005.2 is added to the Welfare and Institutions Code, to read:

14005.2. Unless otherwise specified in this chapter, the eligibility of a person eligible under the Cuban-Haitian Entrant Program or the Refugee Resettlement Program for health care services under Section 14005 shall be determined by applying the same income and resource methodologies and standards and all other eligibility criteria established pursuant to this chapter that are applied by the department in determining the eligibility of a medically needy family person, except for those criteria that establish categorical relatedness, and only as long as federal funds are available.

SEC. 6. Section 14005.4 of the Welfare and Institutions Code is repealed.

SEC. 7. Section 14005.4 is added to the Welfare and Institutions Code, to read:

14005.4. Unless otherwise specified in this chapter, the eligibility of a state-only Medi-Cal person for health care services under Section 14005 shall be determined by applying the same income and resource methodologies and standards and all other eligibility criteria established pursuant to this chapter that are applied by the department in determining the eligibility of a medically needy family person except for those criteria that establish categorical relatedness.

SEC. 8. Section 14011 of the Welfare and Institutions Code is amended to read:

14011. (a) Each applicant who is not a recipient of aid under the provisions of Chapter 2 (commencing with Section 11200) or Chapter 3 (commencing with Section 12000) shall be required to file an affirmation setting forth such facts about his annual income and other resources and qualifications for eligibility as may be required by the department. Such statements shall be on forms prescribed by the department.

(b) To the extent permitted by federal law, eligibility for medical assistance for such applicants shall not be granted until the applicant

or designated representative provides independent documentation verifying statements of gross income by type and source; income amounts withheld for taxes, health care benefits available through employment, retirement, military service, work related injuries or settlements from prior injuries, employee retirement contributions, and other employee benefit contributions, deductible expenses for maintenance or improvement of income-producing property and status and value of property owned, other than property exempt under Section 14006. The director may prescribe those items of exempt property which the director deems should be verified as to status and value in order to reasonably assure a correct designation of those items as exempt.

(c) The verification requirements of subdivision (b) apply to income, income deductions and property both of applicants for medical assistance (other than applicants for public assistance) and to persons whose income, income deductions, expenses or property holdings must be considered in determining the applicant's eligibility and share of cost.

(d) A determination of eligibility and share of cost may be extended beyond otherwise prescribed time frames if, in the county department's judgment, and subject to standards of the director, the applicant or designated representative has good cause for failure to provide the required verification and continues to make a good faith effort to provide such verification.

(e) To the extent permitted by federal law, in addition to the other verification requirements of this section, a county department may require verification of any other applicant statements, or conduct a full and complete investigation of the statements, whenever a verification or investigation is warranted in the judgment of the county department.

(f) If documentation is unavailable, as defined in regulations promulgated by the department, the applicant's signed statement as to the value or amount shall be deemed to constitute verification.

SEC. 9. Section 14016.2 of the Welfare and Institutions Code is amended and renumbered to read:

14017.1. The Joint Legislative Audit Committee shall conduct an audit of one or more county eligibility departments and report to the Legislature on results and recommendations for achieving state control of eligibility determination.

SEC. 10. Section 14016.7 of the Welfare and Institutions Code is repealed.

SEC. 11. Section 14016.9 of the Welfare and Institutions Code is amended to read:

14016.9. Where determined to be cost effective, the department shall utilize the earnings clearance system to verify the eligibility of persons who have applied for or are receiving benefits pursuant to Sections 14005.4 and 14005.7.

SEC. 12. Section 14017.8 is added to the Welfare and Institutions Code, to read:

14017.8. Each person eligible under Section 14005.1 and each person eligible under Section 14005.4 or 14005.7 who is certified eligible shall be provided, by the department, with a Medi-Cal card certifying his or her status, identification number, expiration date and his or her entitlements, insofar as these do not require specific prior authorization. The department shall determine the form of the Medi-Cal card. The cards shall be for a term as determined by the department and, unless canceled for cause, shall entitle individuals to care and service as indicated. Cause for cancellation shall exist when the person dies, loses state residence, is found to be ineligible, or has been issued a new Medi-Cal card.

SEC. 13. Section 14018.2 of the Welfare and Institutions Code, as added by Chapter 102 of the Statutes of 1981, is repealed.

SEC. 14. Section 14023 of the Welfare and Institutions Code is amended to read:

14023. (a) Any applicant for coverage under this chapter who at the time of application has any other contractual or legal entitlement to any health care service defined in Section 14053, and who willfully fails at that time to disclose the fact of such other entitlement, or falsely represents that he or she does not have such other entitlement, is guilty of a misdemeanor.

(b) Any person eligible under this chapter who, subsequent to the date of application for such assistance or coverage under this chapter, acquires any other contractual or legal entitlement to any health care service defined in Section 14053, and willfully fails or refuses to give notice thereof to his county welfare department within 10 days of such acquisition, is guilty of a misdemeanor.

(c) Any person eligible under this chapter who has any other contractual or legal entitlement to any health care service defined in Section 14053, and who knowing that he or she must use such entitlement first, obtains any such service under Medi-Cal without first having utilized and exhausted his or her other contractual or legal entitlement thereto or therefor, is guilty of a misdemeanor.

(d) Any applicant shall by virtue of becoming eligible under this chapter have irrevocably assigned the benefits of any contractual or legal entitlement for health care to the State Director of Health Services to the extent that the services were paid for under this chapter.

SEC. 15. Section 14050.1 of the Welfare and Institutions Code is amended to read:

14050.1. For purposes of this chapter, "categorically needy person" means a person whose coverage is required under the categorically needy program under Title XIX of the Social Security Act as defined in federal regulations.

SEC. 16. Section 14051 of the Welfare and Institutions Code is amended to read:

14051. (a) "Medically needy person" means an aged, blind, or disabled person who meets the definition of aged, blind, or disabled under the Supplemental Security Income Program and whose

income and resources are insufficient to provide for the costs of health care or coverage.

(b) "Medically needy family person" means a parent or caretaker relative of a child who meets the deprivation requirements of Aid to Families with Dependent Children or a child under 21 years of age or a pregnant woman of any age with a confirmed pregnancy, exclusive of those persons specified in subdivision (a), whose income and resources are insufficient to provide for the costs of health care or coverage.

(c) Included under this section are children in foster care for whom public agencies are assuming financial responsibility in whole or in part, or a person receiving aid under Chapter 2.1 (commencing with Section 16115) of Part 4.

SEC. 17. Section 14052 of the Welfare and Institutions Code is repealed.

SEC. 18. Section 14052 is added to the Welfare and Institutions Code, to read:

14052. "State-only Medi-Cal person" means a person who resides in a skilled nursing facility or an intermediate care facility, and who meets all of the following requirements:

(a) Could not meet the definition of a categorically needy person under Section 14050.1, a medically needy person under subdivision (a) of Section 14051 or a medically needy family person under subdivision (b) of Section 14051.

(b) Is over 21 years of age.

(c) Meets the eligibility requirements of Section 14005.4.

SEC. 19. Section 14052.1 is added to the Welfare and Institutions Code, to read:

14052.1. "Cuban-Haitian entrant or refugee" means a person eligible under the Cuban-Haitian Entrant Program or Refugee Resettlement Program, as defined in federal regulations.

SEC. 20. Section 14105 of the Welfare and Institutions Code is amended to read:

14105. (a) The director shall prescribe the policies to be followed in the administration of this chapter, may limit the rates of payment for health care services, and shall adopt such rules and regulations as are necessary for carrying out, not inconsistent with, the provisions thereof.

Such policies and regulations shall include rates for payment for services not rendered under a contract pursuant to Chapter 8 (commencing with Section 14200). In order to implement expeditiously the budgeting decisions of the Legislature, the director shall, to the extent permitted by federal law, adopt regulations setting rates which reflect such decisions within one month after the enactment of the Budget Act and of any other appropriation which changes the level of funding for Medi-Cal services. The proposed regulations shall be submitted to the Department of Finance no later than five days prior to the date of adoption. With the written approval of the Department of Finance, the director shall adopt such

regulations as emergency regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Part 1, Division 3, Title 2 of the Government Code). For purposes of that act, the adoption of such regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, and safety or general welfare.

(b) Insofar as practical, consistent with the efficient and economical administration of this part, the department shall afford recipients of public assistance free choice of arrangements under which they shall receive health care benefits.

(c) If, in the judgment of the director, the actions taken by the director under subdivision (c) of Section 14120 will not be sufficient to operate the Medi-Cal program within the limits of appropriated funds, he may limit the scope and kinds of health care services, except for minimum coverage as defined in Section 14056, available to persons who are not eligible under Section 14005.1. When and if necessary, that action shall be taken by the director in ways consistent with the requirements of the federal Social Security Act.

SEC. 21. Section 14111 of the Welfare and Institutions Code is repealed.

SEC. 22. Section 14121 of the Welfare and Institutions Code is repealed.

SEC. 23. Section 2 of Chapter 1352 of the Statutes of 1984 is amended to read:

Sec. 2. The State Directors of Social Services and Health Services shall adopt regulations implementing the provisions of this act as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purposes of the Administrative Procedure Act, the adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. These regulations shall become effective immediately upon filing with the Secretary of State.

CHAPTER 1355

An act to amend Sections 10225, 10237.4, 10238.7, 10242.6, 10243, and 10248.1 of, to add Sections 10240.1 and 10240.2 to, and to repeal Sections 10237.5 and 10247.5 of, the Business and Professions Code, relating to real property, and making an appropriation therefor.

[Approved by Governor September 30, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 10225 of the Business and Professions Code is amended to read:

10225. An application for a permit to sell real property securities secured by liens on real property situated outside the State of California shall be accompanied by the filing fee together with an amount equivalent to twenty-five cents ($0.25) a mile for each mile going and returning, or where public transportation is available the actual round trip fare pertaining thereto, estimated by the commissioner to be traveled from the office of the Department of Real Estate where the application is filed to the location of the property, and the amount estimated to be necessary to cover the expense of the inspection and appraisal of the property, not to exceed seventy-five dollars ($75) a day for each day actually spent in the inspection and appraisal of the property or properties.

SEC. 2. Section 10237.4 of the Business and Professions Code is amended to read:

10237.4. Every person selling a real property security shall personally sign and deliver to the purchaser a statement in writing, containing all the information required by Section 10232.5, before the purchaser shall be obligated to complete the transaction. No seller shall permit the purchaser to sign the statement if any information required by Section 10232.5 is omitted. The seller shall retain an executed copy of the statement for four years.

SEC. 3. Section 10237.5 of the Business and Professions Code is repealed.

SEC. 4. Section 10238.7 of the Business and Professions Code is amended to read:

10238.7. Every person sustaining an injury resulting from a transaction subject to this article which was in violation of the provisions of the article may recover in a civil action the amount of the damages with interest, as awarded by the court, from the date of the injury, and shall be entitled to be awarded a reasonable attorney's fee. Any such action shall be brought within three years from the date of the transaction notwithstanding the date the injury was discovered.

SEC. 5. Section 10240.1 is added to the Business and Professions Code, to read:

10240.1. The provisions of this article, exclusive of the provisions of Section 10240, apply only to loans secured by a dwelling.

SEC. 6. Section 10240.2 is added to the Business and Professions Code, to read:

10240.2. As used in this article, " dwelling" means any of the following units which are owned by a signatory to the mortgage or deed of trust secured by the dwelling unit at the time of execution of the mortgage or deed of trust:

(a) A single dwelling unit in a condominium or cooperative.

(b) Any parcel containing only residential buildings if the total

number of units on the parcel is four or less.

SEC. 7. Section 10242.6 of the Business and Professions Code is amended to read:

10242.6. (a) The principal and accrued interest on any loan secured by a mortgage or deed of trust on real property containing only a single-family, owner-occupied dwelling may be prepaid in whole or in part at any time but only a prepayment made within seven years of the date of execution of such mortgage or deed of trust may be subject to a prepayment charge and then solely as herein set forth. An amount not exceeding 20 percent of the unpaid balance may be prepaid in any 12-month period. A prepayment charge may be imposed on any amount prepaid in any 12-month period in excess of 20 percent of the unpaid balance which charge shall not exceed an amount equal to the payment of six months' advance interest on the amount prepaid in excess of 20 percent of the unpaid balance.

(b) As used in this section, "owner-occupied dwelling" means a dwelling which will be owned and occupied by a signatory to the mortgage or deed of trust secured by the dwelling within 90 days of the execution of the mortgage or deed of trust.

SEC. 8. Section 10243 of the Business and Professions Code is amended to read:

10243. If the loan is not consummated due to the failure of the borrower to disclose the outstanding liens of record or the correct current vested title which is material to the loan upon the real property as provided by subdivision (c) of Section 10241, the borrower shall be liable for the costs and expenses provided in subdivision (a) of Section 10241 which have been paid or incurred, and shall be liable for the payment of one-half of the charges provided in subdivision (b) of Section 10241. An exclusive agreement authorizing or employing a licensee to negotiate a loan secured directly or collaterally by a lien on real property shall be limited to a term of not more than 45 days.

If the loan is not consummated and the broker is entitled to any charges, costs or expenses authorized by this article, he or she may not record a lien or encumbrance against the borrower's property except subsequent to the filing of a legal action pursuant to the Code of Civil Procedure to recover said charges, costs or expenses. However, nothing contained herein shall prohibit a broker from recording a lien pursuant to a voluntary lien agreement in conjunction with a stipulation to dismiss an actual or proposed complaint for damages entitling the broker to such charges, costs or expenses after written notice to the borrower that the broker proposes or has initiated a complaint for damages pursuant to the Code of Civil Procedure.

SEC. 9. Section 10247.5 of the Business and Professions Code is repealed.

SEC. 10. Section 10248.1 of the Business and Professions Code is amended to read:

10248.1. No real estate licensee shall charge, receive or negotiate

for the payment by the borrower of any service charge or fee other than charges and fees specified in Sections 10241, 10241.1, 10242, and 10242.5, prepayment penalties as authorized by law, extinction, release, reconveyance or other removal of record fees, and trustees costs and fees in accordance with the Civil Code and the Code of Civil Procedure.

CHAPTER 1356

An act to add Section 20230.1 to the Government Code, relating to state employees.

[Approved by Governor September 30, 1985. Filed with Secretary of State October 1, 1985.]

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

SECTION 1. Section 20230.1 is added to the Government Code, to read:

20230.1. (a) The board shall annually submit to the Governor and the Legislature a report on the incidence of service and disability retirements with respect to each state department and contracting agency. The report shall include the following:

(1) The frequency of disability retirements as compared to the total number of retirements from the state department or contracting agency, adjusted for the change in the number of the members in the state department or contracting agency.

(2) The number of years the affected members served in the employment of the state department or contracting agency on the effective date of the disability retirement.

(3) The age of the retiree on the effective date of his or her disability retirement.

(4) The physical or mental impairment which was the basis for the application by the member for disability retirement, using the following categories to describe these impairments:

(A) Orthopedic.

(B) Psychological.

(C) Cardio-vascular.

(D) Internal.

(E) Neurological.

(F) Other.

(b) Commencing on January 1, 1987, and annually thereafter, the board shall transmit, for the fiscal year ending on the preceding June 30, to each state department a report on the data regarding the incidence of service and disability retirements with respect to that particular department, and copies thereof shall be transmitted to the Governor and the Legislature.

SEC. 2. It is the intent of the Legislature, in enacting this act, to

effectuate certain recommendations in the Final Report to the Legislature on Senate Concurrent Resolution 59 Relative to Disability Programs and Disabled State Employees.

CHAPTER 1357

An act relating to fish and game, and making an appropriation therefor.

[Approved by Governor September 30, 1985. Filed with Secretary of State October 1, 1985]

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

SECTION 1. The sum of three hundred ten thousand dollars ($310,000), one hundred thirty-five thousand dollars ($135,000) from the General Fund and one hundred seventy-five thousand dollars ($175,000) from the Fish and Game Preservation Fund, is hereby appropriated to the Department of Fish and Game to provide for one roving special investigative unit, and in this regard to fund one lieutenant and five fish and game warden positions and to provide for costs of equipment. The cost of the six new positions in the department shall be funded by funds from the General Fund and by funds from the Fish and Game Preservation Fund.

SEC. 2. The Department of Fish and Game shall establish not less than two permanent roving special investigative units consisting of five members each. The personnel for two units shall be derived from the six positions provided in Section 1 of this act and four positions from existing warden positions in the department.

SEC. 3. It is the intent of the Legislature that all of the following occurs:

(a) The roving units established pursuant to Section 2 of the act be utilized to enforce laws relating to all birds, mammals, fish, amphibia, and reptiles.

(b) The program established pursuant to Section 2 of this act be operated on a permanent basis and that the funds appropriated pursuant to Section 1 of this act be appropriated annually.

(c) The program established pursuant to Section 2 of this act be administered by the Wildlife Protection Branch of the Department of Fish and Game as roving special investigative units relating to the commercial take of birds, mammals, fish, amphibia, and reptiles; rare and endangered species violations; and other birds, mammals, fish, amphibia, and reptiles violations deemed appropriate by the department.

CHAPTER 1358

An act to amend Sections 4700 and 4801 of, and to add Sections 4700.2 and 4801.1 to, the Civil Code, relating to family law.

[Approved by Governor September 30, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. 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. Any order for child support, as well as any order of modification or revocation of such an order, may be made retroactive to the date of the filing of the notice of motion or order to show cause therefor, or to any subsequent date. An 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. 2. Section 4700.2 is added to the Civil Code, to read:

4700.2. (a) The purpose of this section is to permit inexpensive discovery of facts prior to the institution of an action for the modification of an order for child or family support.

(b) At any time following a judgment of dissolution of marriage or legal separation that provides for payment of child or family support, either the party ordered to pay support or the party to whom support was ordered to be paid or that party's assignee, without leave of court, may serve a request for the production of a completed current income and expense declaration in the form adopted by the Judicial Council.

Methods of discovery other than that described in this subdivision may only be employed if a motion for modification of support is pending. In the absence of a pending motion for modification of support, a request for discovery pursuant to this section may be undertaken no more than once a year. This section may be enforced in the manner specified in Sections 1991, 1991.1, 1991.2, 1992, 1993, and 2034 of the Code of Civil Procedure, and any other statutes applicable to the enforcement of procedures for discovery. The Judicial Council shall adopt forms for the use of the procedure provided by this section.

(c) Service of a request for production of an income and expense declaration pursuant to this section shall be by certified mail, postage prepaid, return receipt requested, to the last known address of the party to be served, or by personal service.

(d) Upon the subsequent filing of a motion for modification of child or family support by the requesting party, if the court finds that the income and expense declaration submitted by the responding party pursuant to this section was incomplete or inaccurate, and that the declaration was not submitted in good faith, the court may order sanctions against the responding party in the form of payment of all costs of the motion, including the filing fee and the costs of the depositions and subpoenas necessary to be utilized in order to obtain complete and accurate information.

SEC. 3. Section 4801 of the Civil Code is amended to read:

4801. (a) In any judgment decreeing the dissolution of a marriage or a legal separation of the parties, the court may order a party to pay for the support of the other party any amount, and for any period of time, as the court may deem just and reasonable. In making the award, the court shall consider all of the following circumstances of the respective parties:

(1) The earning capacity of each spouse, taking into account the extent to which the supported spouse's present and future earning capacity is impaired by periods of unemployment that were incurred during the marriage to permit the supported spouse to devote time to domestic duties and the extent to which the supported spouse

contributed to the attainment of an education, training, or a license by the other spouse.

(2) The needs of each party.

(3) The obligations and assets, including the separate property, of each.

(4) The duration of the marriage.

(5) The ability of the supported spouse to engage in gainful employment without interfering with the interests of dependent children in the custody of the spouse.

(6) The time required for the supported spouse to acquire appropriate education, training, and employment.

(7) The age and health of the parties.

(8) The standard of living of the parties.

(9) Any other factors which it deems just and equitable.

At the request of either party, the court shall make appropriate factual determinations with respect to the circumstances. The court may order the party required to make the payment of support to give reasonable security therefor. Any order for support of the other party 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. Any order for spousal support may be made retroactive to the date of filing of the notice of motion or order to show cause therefor, or to any subsequent date. At the request of either party, the order of modification or revocation shall include a statement of decision and may be made retroactive to the date of filing of the notice of motion or order to show cause therefor, or to any subsequent date.

(b) Except as otherwise agreed by the parties in writing, the obligation of any party under any order or judgment for the support and maintenance of the other party shall terminate upon the death of either party or the remarriage of the other party.

(c) When a court orders a person to make specified payments for support of the other party for a contingent period of time, the liability of the person terminates upon the happening of the contingency. If the party to whom payments are to be made fails to notify the person ordered to make the payments, or the attorney of record of the person so ordered, of the happening of the contingency and continues to accept support payments, the supported party 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 party 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.

(d) An order for payment of an allowance for the support of one of the parties shall terminate at the end of the period specified in the order and shall not be extended unless the court in its original order

retains jurisdiction.

(e) In any proceeding under this section the court may order a party to submit to an examination by a vocational training consultant. The order may be made only on motion, for good cause shown, and upon notice to the party to be examined and to all parties, and shall specify the time, place, manner, conditions, scope of the examination, and the person or persons by whom it is to be made. The party refusing to comply with such an order shall be subject to the same consequences provided for failure to comply with an examination ordered pursuant to Section 2032 of the Code of Civil Procedure.

(f) For the purposes of this section, "vocational training consultant" means an individual with sufficient knowledge, skill, experience, training, or education relating to interviewing, the testing and analysis of work skills, the planning of courses of training and study, the formulation of career goals, and the work market to qualify as an expert in vocational training under Section 720 of the Evidence Code.

SEC. 4. Section 4801.1 is added to the Civil Code, to read:

4801.1. (a) The purpose of this section is to permit inexpensive discovery of facts prior to the institution of an action for the modification of an order for spousal support.

(b) At any time following a judgment of dissolution of marriage or legal separation that provides for payment of spousal support, either the party ordered to pay support or the party to whom support was ordered to be paid or that party's assignee, without leave of court, may serve a request for the production of a completed current income and expense declaration in the form adopted by the Judicial Council.

Methods of discovery other than that described in this subdivision may only be employed if a motion for modification of support is pending. In the absence of a pending motion for modification of support, a request for discovery pursuant to this section may be undertaken no more than once a year. This section may be enforced under Sections 1991, 1991.1, 1991.2, 1992, 1993, and 2034 of the Code of Civil Procedure, and any other statutes applicable to the enforcement of procedures for discovery. The Judicial Council shall adopt forms which shall be used in the procedures provided by this section.

(c) Service of a request for production of an income and expense declaration pursuant to this section shall be by certified mail, postage prepaid, return receipt requested, to the last known address of the party to be served, or by personal service.

(d) Upon the subsequent filing of a motion for modification of spousal support by the requesting party, if the court finds that the income and expense declaration submitted by the responding party pursuant to this section was incomplete or inaccurate, and that the declaration was not submitted in good faith, the court may order sanctions against the responding party in the form of payment of all

costs of the motion, including the filing fee and the costs of depositions and subpoenas necessary to be utilized in order to obtain complete and accurate information.

CHAPTER 1359

An act to amend Sections 9356.5, 75030.5, 75030.6, 75030.7, 75030.8, and 75030.9 of the Government Code, and to amend Section 2 of Chapter 220 of the Statutes of 1984, relating to public retirement systems.

[Approved by Governor September 30, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 2 of Chapter 220 of the Statutes of 1984 is amended to read:

Sec. 2. This act shall become operative only upon the approval by the electors of Senate Constitutional Amendment 5 of the 1985–86 Regular Session of the Legislature, and in such event, on the effective date of the approval.

SEC. 2. Section 9356.5 of the Government Code is amended to read:

9356.5. Any member whose service is discontinued but whose membership is continued under Section 9355.2 and who becomes a member of the Judges' Retirement System or is entitled to benefits under the Judges' Retirement Law, may elect to transfer all or part of the service for which he is credited under this system to the Judges' Retirement System pursuant to Section 75030.5. The election may be made at any time prior to retirement by written notice to the board of administration. The member shall designate in the notice the dates of the service which he elects to transfer. Upon receipt of such notice by the board of administration, the member's accumulated contributions on account of the period of service transferred, and the interest thereon, shall be transferred to the Judges' Retirement Fund.

If the member elects to transfer all of the service for which he is credited in this system, his membership in this system is terminated. If he elects to transfer less than all of such service, his membership is continued under Section 9355.2 and the service with which he is credited in this system is reduced by the amount so transferred.

Any member whose service is discontinued but whose membership is continued under Section 9355.2 who is entitled to receive credit under this system by making an election to do so and making contribution to this system for such service, but who has not made such election, may, after becoming a member of the Judges' Retirement System, elect to receive credit for all or part of such

service in the Judges' Retirement System pursuant to Section 75030.5. Upon making such election, the member may not thereafter elect to be credited in this system with the service so transferred.

This section shall not apply to any person who, on or after January 1, 1986, first becomes or continues as a legislator, as defined in Section 9351.3, in a term of office which commences on or after January 1, 1986.

SEC. 3. Section 75030.5 of the Government Code is amended to read:

75030.5. Any judge who first becomes a judge on or after May 1, 1962, and who has served as an elected state constitutional officer before becoming a judge, or any judge who first became a judge prior to such date who has served as a constitutional officer or as a public legal officer before becoming a judge, has a right to elect, by written election filed with the Controller at any time prior to retirement, to make contributions pursuant to this section for, and receive credit in this system as, service for all or any part of the time he served as such officer, excluding any period of time for which he is receiving, or is entitled to receive, a retirement allowance from any other public retirement system.

As used herein, the term "elected state constitutional officer" means the holder of the office of Member of the Senate or Assembly, Governor, Lieutenant Governor, Secretary of State, Controller, Treasurer, Attorney General, Superintendent of Public Instruction, or member of the State Board of Equalization.

As used herein, the term "constitutional officer" means the holder of an office created by the California Constitution, and "public legal officer" means the holder of any legal office of the state or any agency of the state or of any county or city in the state who is paid a salary or other fixed regular compensation and who is admitted and licensed to practice law in the State of California during the time of holding the office and whose principal duties in the office are legal in nature, such as Attorney General, Legislative Counsel, Commissioner of Corporations, district attorney, county counsel, city attorney, city prosecutor, public defender, or deputy of any such office, or a secretary to the Governor whose duties include the hearing of extradition matters, admitted and licensed to practice law in the State of California during the time of holding the office and whose principal duties in the office are legal in nature.

Every judge electing to receive credit for service pursuant to this section shall at the time of filing his election, and as a condition to receiving such credit, pay into the Judges' Retirement Fund a sum equal to the amount which would have been deducted from his salary and paid into that fund pursuant to Section 75102 had he been a judge during the time for which he elects to receive credit for service, computed by applying the rates of deduction applicable to judges' salaries during such time to the rate of salary he actually received during his first year as a judge, plus interest at 3 percent a year, to the date of his payment, upon the amounts of such

deductions and from the respective dates they would have been paid had he been a judge during the time for which he elects to receive credit for service. Such amount and interest shall be determined by the Controller in accordance with this section. Funds transferred to the Judges' Retirement Fund pursuant to Section 9356.5 shall be deducted from such payment. Any funds so transferred which are in excess of the amount required by Section 9356.5 shall be refunded to the judge.

This section shall not apply to any person who, on or after January 1, 1986, first becomes or continues as an elected state constitutional officer, in a term which commences on or after January 1, 1986.

SEC. 4. Section 75030.6 of the Government Code is amended to read:

75030.6. On and after October 1, 1961, the right to elect to receive credit for service pursuant to Section 75030.5 shall apply only to a judge who has served as a judge as defined by Section 75002 for at least six years or who is elected to the office of judge as defined by Section 75002. This section shall not apply to any judge who is a member of this system on September 30, 1961, or to any person who, on or after January 1, 1986, first becomes or continues as an elected state constitutional officer, as defined by Section 75030.5, in a term which commences on or after January 1, 1986.

SEC. 5. Section 75030.7 of the Government Code is amended to read:

75030.7. A Member of the Senate or Assembly who is not returned to office, or who chooses not to run, when the Senate or Assembly district, respectively, to which he was last elected, is altered pursuant to a reapportionment of legislative districts other than a decennial reapportionment, and whose contributions as a judge remain on deposit in the fund under Section 75033, shall, during the term of office for which he was elected:

(a) Have a right under Section 75030.5 to elect by written election filed with the Controller at any time prior to his retirement, to make contributions pursuant to Section 75030.5 and to receive credit in this system as service rendered for all or any part of his service as an elected state constitutional officer, or as a public legal officer, as defined in Section 75030.5, either before or after his service as a judge, excluding any period of time for which he is receiving or is entitled to receive a retirement allowance from any other public retirement system. This subdivision shall not apply to any person who, on or after January 1, 1986, first becomes or continues as an elected state constitutional officer, as defined by Section 75030.5, in a term which commences on or after January 1, 1986.

(b) Be retired as a judge under Section 75025 upon attaining, as provided in this section, the age and service requirements specified in that section.

For the purposes of this section, "service as an elected state constitutional officer" shall include all or any portion of the term of office for which he was duly elected as such elected state

constitutional officer as specified by law at the time of his election preceding such reapportionment.

SEC. 6. Section 75030.8 of the Government Code is amended to read:

75030.8. A Member of the Senate or Assembly who is not returned to office, or who chooses not to run, when the Senate or Assembly district, respectively, to which he was last elected, is altered pursuant to a reapportionment of legislative districts other than a decennial reapportionment, and whose contributions as a judge remain on deposit in the fund under Section 75033, shall, during the term of office for which he was elected:

(a) Have a right under Section 75030.5 to elect by written election filed with the Controller at any time prior to his retirement, to make contributions pursuant to Section 75030.5 and to receive credit in this system as service rendered for all or any part of his service as an elected state constitutional officer, or as a public legal officer, as defined in Section 75030.5, either before or after his service as a judge, excluding any period of time for which he is receiving or is entitled to receive a retirement allowance from any other public retirement system. This subdivision shall not apply to any person who, on or after January 1, 1986, first becomes or continues as an elected state constitutional officer, as defined by Section 75030.5, in a term which commences on or after January 1, 1986.

(b) Be retired as a judge under Section 75025 upon attaining, as provided in this section, the age and service requirements specified in that section.

For the purposes of this section, "service as an elected state constitutional officer" shall include all or any portion of the term of office for which he was duly elected as such elected state constitutional officer as specified by law at the time of his election preceding such reapportionment.

SEC. 7. Section 75030.9 of the Government Code is amended to read:

75030.9. A Member of the Senate or Assembly whose contributions as a judge remain on deposit in the fund under Section 75033, shall, during the term of office for which he was elected:

(a) Have a right under Section 75030.5 to elect by written election filed with the Controller at any time prior to his retirement, to make contributions pursuant to Section 75030.5 and to receive credit in this system as service rendered for all or any part of his service as an elected state constitutional officer, or as a public legal officer, as defined in Section 75030.5, either before or after his service as a judge, excluding any period of time for which he is receiving or is entitled to receive a retirement allowance from any other public retirement system. This subdivision shall not apply to any person who, on or after January 1, 1986, first becomes or continues as an elected state constitutional officer, as defined by Section 75030.5, in a term which commences on or after January 1, 1986.

(b) Be retired as a judge under Section 75025 upon attaining, as

provided in this section, the age and service requirements specified in that section.

For the purposes of this section, "service as an elected state constitutional officer" shall include all or any portion of the term of office for which he or she was duly elected as such elected state constitutional officer as specified by law at the time of his election.

SEC. 8. The Legislature hereby declares that the amendments made by Sections 2, 3, 4, 5, 6, and 7 of this act are an exercise of the power granted to the Legislature by Section 4 of Article IV of the California Constitution to, prior to their retirement, limit the retirement benefits payable to members of the Legislature who serve during or after the term commencing in 1967 and of the power of the Legislature to apply to a state officer, upon his or her commencement of a new term of office, revisions of the applicable retirement statutes which revisions provide for lower retirement benefits than those applicable to the immediately preceding term of office.

CHAPTER 1360

An act to add Sections 14132.15 and 14132.35 to the Welfare and Institutions Code, relating to the medical assistance program.

[Approved by Governor September 30, 1985 Filed with Secretary of State October 1, 1985.]

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Elderly stroke victims need rehabilitation services in order to regain the use of their limbs, speech, or other faculties which have been impaired by a stroke.

(b) Rehabilitation treatment can restore the self-sufficiency of stroke victims and allow them to remain living independently in the community.

SEC. 2. Section 14132.15 is added to the Welfare and Institutions Code, to read:

14132.15. For purposes of subdivision (p) of Section 14132, "rehabilitation services" means services intended to assist physically or cognitively impaired persons to achieve or regain their maximum functional potential for mobility, self-care, and independent living.

SEC. 3. Section 14132.35 is added to the Welfare and Institutions Code, to read:

14132.35. (a) Outpatient rehabilitation services are covered under this chapter, subject to utilization controls.

(b) The department and the Medi-Cal field offices shall not discriminate against elderly recipients in authorizing services under

this section, and shall recognize the importance of rehabilitation services in allowing elderly persons to remain independent and at home.

(c) Rehabilitation services may be provided in group settings, including what is referred to as stroke centers which offer programs and group training for adults in therapeutic exercise, activities of daily living, speech remediation, or counseling.

(d) In order to be eligible for reimbursement under this section, stroke centers shall be certified as participating providers and meet the rules and regulations of the department. Stroke centers shall meet the requirements for licensure of either adult day health care centers or outpatient rehabilitation clinics.

CHAPTER 1361

An act to add Sections 12810.2 and 27315 to the Vehicle Code, relating to vehicles.

[Approved by Governor September 30, 1985. Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 12810.2 is added to the Vehicle Code, to read:

12810.2. Notwithstanding subdivision (d) of Section 12810, no violation point count shall be given for a conviction of a violation of Section 27315 to determine if the person convicted is a negligent driver for purposes of Section 12809, or 13359.

SEC. 1.5. Section 27315 is added to the Vehicle Code, to read:

27315. (a) The Legislature finds that a mandatory seatbelt law will contribute to reducing highway deaths and injuries by encouraging greater usage of existing manual seatbelts, that automatic crash protection systems which require no action by vehicle occupants offer the best hope of reducing deaths and injuries, and that encouraging the use of manual safety belts is only a partial remedy for addressing this major cause of death and injury. The Legislature declares that the enactment of this section is intended to be compatible with support for federal safety standards requiring automatic crash protection systems and should not be used in any manner to rescind federal requirements for installation of automatic restraints in new cars.

(b) This section shall be known and may be cited as the Private Passenger Motor Vehicle Safety Act.

(c) As used in this section, "private passenger motor vehicle" means any passenger vehicle as defined in Section 465 and any motortruck as defined in Section 410 of less than 6,001 pounds unladen weight, but "private passenger motor vehicle" does not

include a motorcycle as defined in Section 400.

(d) No person shall operate a private passenger motor vehicle on a highway unless that person and all passengers over the age of four are restrained by a safety belt, except that the operator of a taxicab, as defined in Section 27908, shall not operate the taxicab unless the operator and any passengers over the age of four years in the front seat are restrained by a safety belt.

(e) No person 16 years of age or over shall be a passenger in a private passenger motor vehicle on a highway unless that person is restrained by a safety belt.

(f) Every owner of a private passenger motor vehicle operated on a highway shall maintain safety belts in good working order for the use of occupants of the vehicle. The safety belts shall conform to motor vehicle safety standards established by the United States Department of Transportation. This subdivision does not, however, require installation or maintenance of safety belts where not required by the laws of the United States applicable to the vehicle at the time of its initial sale.

(g) This section does not apply to a passenger or operator with a physically disabling condition or medical condition which would prevent appropriate restraint in a safety belt, if the condition is duly certified by a licensed physician and surgeon or by a licensed chiropractor who shall state the nature of the condition, as well as the reason the restraint is inappropriate.

(h) Notwithstanding subdivision (a) of Section 42001, any violation of subdivision (d), (e), or (f) is an infraction punishable by a fine, including all penalty assessments and court costs imposed on the convicted person, of not more than twenty dollars ($20) for a first offense, and a fine, including all penalty assessments and court costs imposed on the convicted person, of not more than fifty dollars ($50) for each subsequent offense. In lieu of the fine and any penalty assessment or court costs, the court, pursuant to Section 42005, may order that a person convicted of a first offense attend a school for traffic violators or a driving school in which the use of safety belts is demonstrated.

(i) In any civil action, a violation of subdivision (d), (e), or (f) or information of a violation of subdivision (h) shall not establish negligence as a matter of law or negligence per se for comparative fault purposes, but negligence may be proven as a fact without regard to the violation.

(j) Notwithstanding Section 40300 or any other provision of law, a peace officer shall not stop or seize a person for a violation of subdivision (d), (e), or (f), nor arrest or issue a notice to appear or notice to correct for a violation of those subdivsions if the officer has no other cause to stop or seize the person other than a violation of subdivision (d), (e), or (f).

(k) If the United States Secretary of Transportation fails to promulgate safety standards for manual safety belt systems by September 1, 1987, no private passenger motor vehicle

manufactured after that date for sale or sold in this state shall be registered unless it contains a manual safety belt system which meets the performance standards applicable to automatic crash protection devices promulgated by the Secretary of Transportation pursuant to Federal Motor Vehicle Safety Standard No. 208 (49 C.F.R., Sec. 571.208) as in effect on January 1, 1985.

(*l*) Each private passenger motor vehicle offered for original sale in this state which has been manufactured on or after September 1, 1989, shall comply with the automatic restraint requirements of Section S.4.1.2.1 of Federal Motor Vehicle Safety Standard No. 208 (49 C.F.R., Sec. 571.208), dated July 11, 1984. Any automobile manufacturer who sells or delivers a private passenger motor vehicle subject to the requirements of this subdivision who fails to comply with this subdivision shall be punished by a fine of not more than five hundred dollars ($500) for each sale or delivery of a noncomplying private passenger motor vehicle.

(m) Compliance with subdivision (k) or (*l*) by a manufacturer shall be made by self-certification in the same manner as self-certification is accomplished under federal law.

(n) This section does not apply to a person actually engaged in delivery of newspapers to customers along the person's route if the person is restrained by a safety belt prior to commencing and subsequent to completing delivery on the route.

(o) This section does not apply to a person actually engaged in collection and delivery activities as a rural delivery carrier for the United States Postal Service if the person is restrained by a safety belt prior to stopping at the first box and subsequent to stopping at the last box on the route.

(p) Subdivisions (d), (e), (f), (g), and (h) shall become inoperative immediately upon the date that the Secretary of the United States Department of Transportation, or his or her delegate, determines to rescind the portion of the Federal Motor Vehicle Safety Standard 208 (49 C.F.R. Sec. 571.208) which requires the installation of automatic restraints in new private passenger motor vehicles; provided, however, that those subdivisions shall not become inoperative if the secretary's decision to rescind Standard 208 is not based, in any respect, on the enactment or continued operation of those subdivisions.

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 1362

An act to amend Section 1597.531 of the Health and Safety Code, and to add Section 676.1 to, and to add Chapter 10 (commencing with Section 1862) to Part 2 of Division 1 of, the Insurance Code, relating to child day care facilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1985. Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 1597.531 of the Health and Safety Code is amended to read:

1597.531. (a) All family day care homes for children shall either maintain in force liability insurance covering injury to clients and guests in the minimum amount of one hundred thousand dollars ($100,000) per occurrence, not to exceed three hundred thousand dollars ($300,000) in the aggregate during an annual policy period, or a bond in the aggregate amount of three hundred thousand dollars ($300,000). In lieu of the liability insurance or the bond, the family day care home may maintain a file of affidavits signed by each parent with a child enrolled in the home which meets the requirements of this subdivision. The affidavit shall state that the parent has been informed that the family day care home does not carry liability insurance or a bond according to standards established by the state. These affidavits shall be on a form provided by the department and shall be reviewed at each licensing inspection.

(b) The department shall initiate proceedings to revoke the license of any family day care home that is out of compliance with this section.

SEC. 2. Section 676.1 is added to the Insurance Code, to read:

676.1. (a) The arbitrary cancellation of a policy of homeowners' insurance solely on the basis that the policyholder is engaged in a licensed family day care business at the insured location shall subject the insurer to administrative sanctions authorized by this code unless, there has been a material misrepresentation of fact, the risk has changed substantially since the policy was issued, there has been a nonpayment of premium, or the insurer no longer writes homeowners policies.

(b) The arbitrary refusal to renew a policy of homeowners' insurance solely on the basis that the policy holder is engaged in a licensed family day care business at the insured location shall subject the insurer to administrative sanctions authorized by this code unless, there has been a material misrepresentation of fact, the risk has changed substantially since the policy was issued, there has been a nonpayment of premium, or the insurer no longer writes homeowners policies. This subdivision shall remain in effect only

until January 1, 1990, and as of such date is repealed.

(c) It shall be against public policy for a residential property insurance policy to provide liability coverage for losses arising out of, or in connection with, the operation of a family day care home. This coverage shall only be provided by a separate endorsement or insurance policy for which premiums have been assessed and collected.

SEC. 3. Chapter 10 (commencing with Section 1862) is added to Part 2 of Division 1 of the Insurance Code, to read:

CHAPTER 10. CHILD CARE INSURANCE ACT

1862. It is the intent of the Legislature in enacting this chapter to assure the availability, stability, and affordability of liability insurance for operators of day care in this state, and to provide the residents of this state an adequate, safe, affordable, and plentiful market of day care services.

1863. Unless the provision or context otherwise requires, the following definitions govern the construction of this chapter:

(a) "Commissioner" means the Insurance Commissioner of this state.

(b) "Net direct premiums" means gross direct premiums written on liability insurance in this state, including the liability portion of the multiperil policies and of automobile insurance policies, less return premiums and any surplus premium deposits. "Net direct premiums" shall not mean any reinsurance premiums or premiums for ocean marine insurance.

(c) "Insurer" means any person who undertakes to indemnify another against loss, damage, or liability arising from a contingent or unknown event, and shall include reciprocals and interinsurance exchanges.

(d) "Family day care provider" means those persons licensed pursuant to Section 1596.78 or 1596.79 of the Health and Safety Code.

1864. (a) On or before May 1 of each year, commencing in 1987, each insurer engaged in writing child care liability insurance coverage in this state shall submit to the commissioner a report of its operations regarding child care liability claims experience for the last preceding calendar year ending on December 31 on a form furnished by the commissioner. Each report shall separately state the following information for family day care homes, as defined in Section 1596.78 of the Health and Safety Code, and licensed child care centers, as defined in Section 1596.76 of the Health and Safety Code:

(1) Premiums earned.

(2) Premiums written.

(3) Number of claims.

(4) Number of new claims during the reporting period.

(5) Number of claims closed during the reporting period.

(6) Number of claims outstanding at the end of the reporting period.

(7) Total losses incurred.

(8) Total losses incurred as a percentage of premiums earned.

(9) Total number of policies in force on the last day of the reporting period.

(10) Total number of policies canceled.

(11) Total number of policies nonrenewed.

(12) Net underwriting gain or loss.

(13) Separate allocations of expenses for commissions, other acquisition costs, general office expenses, taxes, licenses and fees, and other expenses. The allocations required by this section shall be made by dividing the company's total premiums earned for child care liability insurance by its total premiums earned and applying the ratio determined to the expenses reported in the company's annual statement filed with the Commissioner pursuant to Section 900.

(b) The commissioner shall develop and issue reporting forms to insurers at least 90 days prior to the due date of the reports required pursuant to this section.

(c) By February 1, 1986, a task force appointed pursuant to this subdivision shall submit a preliminary report to the Legislature which contains recommendations on any other appropriate data to be required from insurers in their annual report of operations. A final report shall be submitted no later than July 1, 1986. The task force shall include one representative from the Insurance Commissioner, one representative from the insurance industry who shall be appointed by the Governor, and one representative from the Legislative Analyst's Office, as well as one child care provider appointed by the Senate Committee on Rules and one child care provider appointed by the Speaker of the Assembly. These members shall be appointed no later than October 15, 1985. The task force shall review all data used by insurance companies in calculating and determining increases in premiums, and the underwriting criteria and rationale they use to decide whether or not to provide coverage for child care providers.

(d) The Legislature finds that it is in the public interest of the policyholders of this state that insurers writing child care liability insurance permit remittance of premiums to occur on an installment basis.

(e) The information provided under this section pertaining to a specified claim, insurance policy, or insurer shall be confidential and shall only be revealed by the department on a nonspecific basis as part of an aggregate report of claims or policies.

SEC. 4. The Insurance Commissioner shall take those steps necessary to insure the availability of liability insurance to child care centers and family day care providers.

The commissioner shall so inform the Legislature and the Governor on the success of any program by February 1, 1986, and shall issue a followup report by July 1, 1986.

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:

Child care providers are faced with the urgent problem of obtaining available and affordable liability insurance coverage for their child care operations.

The providers of child care services are experiencing midterm policy cancellations, substantial rate increases during the term of existing coverage, nonrenewals upon policy expiration dates, and substantial price increases and coverage limitations upon the renewal or purchase of new polices. Midterm cancellations and premium increases are frequently taking place regardless of a child care provider's risk quality, claims history, or loss experience.

The effects of indiscriminate policy cancellations and premium rate increases are far-reaching, touching not only the child care providers themselves, but the parents and children in need of child care services.

This crisis has forced child care providers to discontinue operations, pass the increased costs on to parents who cannot afford these increases, or illegally operate "underground" without a license. It is vital for the residents of this state to have available an adequate, safe, and affordable market of family day care services, and therefore it is necessary that this act take effect immediately.

CHAPTER 1363

An act to amend Section 1597.531 of the Health and Safety Code, relating to insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 1597.531 of the Health and Safety Code is amended to read:

1597.531. (a) All family day care homes for children shall either maintain in force liability insurance covering injury to clients and guests in the amount of at least one hundred thousand ($100,000) per occurrence and three hundred thousand dollars ($300,000) in the total annual aggregate, sustained on account of the negligence of the licensee or its employees, or a bond in the aggregate amount of three hundred thousand dollars ($300,000). In lieu of the liability insurance or the bond, the family day care home may maintain a file of affidavits signed by each parent with a child enrolled in the home which meets the requirements of this subdivision. The affidavit shall state that the parent has been informed that the family day care

home does not carry liability insurance or a bond according to standards established by the state. These affidavits shall be on a form provided by the department and shall be reviewed at each licensing inspection.

(b) The department shall initiate proceedings to revoke the license of any family day care home that is out of compliance with 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 alleviate a serious insurance crisis confronting family day care homes for children, it is necessary that this act take effect immediately.

CHAPTER 1364

An act to amend Sections 8208, 8265, and 8397 of, and to add Sections 8208.5 and 8265.7 to, the Education Code, relating to child care and development programs, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. It is the intent of the Legislature that:

(a) Parents who are attending college have access to child care and development services throughout California.

(b) Parents who are teenagers have access to child care and development services throughout California.

(c) Parents who are migrant farmworkers have access to child care and development services throughout California.

(d) Families which are at risk of abuse and neglect have access to child care and development services throughout California.

(e) Child care and development programs be expanded to infants and to children with exceptional needs.

SEC. 2. Section 8208 of the Education Code is amended to read:

8208. As used in this chapter:

(a) "Assigned reimbursement rate" is that rate established by the contract with the agency and is derived by dividing the total dollar amount of the contract by the minimum average daily enrollment level of service required.

(b) "Alternative payments" includes payments which are made by one child care agency to another agency or child care provider for the provision of child care and development services, and payments which are made by an agency to a parent for the parent's

purchase of child care and development services.

(c) "Applicant or operating agency" means a school district, community college district, college or university, county superintendent of schools, county, city, public agency, private non-tax-exempt agency, private tax-exempt agency, or other entity which is authorized to establish, maintain, or operate services pursuant to this chapter. Private agencies and parent cooperatives, duly licensed by law, shall receive the same consideration as any other authorized entity with no loss of parental decisionmaking prerogatives as consistent with the provisions of this chapter.

(d) "Attendance" means the number of children present at a child care and development facility. "Attendance," for the purposes of reimbursement, includes excused absences by children because of illness, quarantine, illness or quarantine of their parent, family emergency, or to spend time with a parent or other relative as required by a court of law or which is clearly in the best interest of the child.

(e) "Capital outlay" means the amount paid for the renovation and repair of child care and development facilities to comply with state and local health and safety standards, and the amount paid for the state purchase of relocatable child care and development facilities for lease to qualifying contracting agencies.

(f) "Caregiver" means a person who provides direct care, supervision, and guidance to children in a child care and development facility.

(g) "Child care and development facility" means any residence or building or part thereof in which child care and development services are provided.

(h) "Child care and development programs" means those programs which offer a full range of services for children from infancy to 14 years of age, for any part of a day, by a public or private agency, in centers and family child care homes. These programs include, but are not limited to, all of the following:

(1) Campus child care and development.

(2) General child care and development.

(3) Intergenerational child care and development.

(4) Migrant child care and development.

(5) School-age parenting and infant development.

(i) "Child care and development services" means those services designed to meet a wide variety of needs of children and their families, while their parents or guardians are working, in training, seeking employment, incapacitated, or in need of respite. These services include direct care and supervision, instructional activities, resource and referral programs, and alternative payment arrangements.

(j) "Children at risk of abuse, neglect, or exploitation" means children who are identified as such in a written referral from a legal, medical, or social service agency.

(k) "Children with exceptional needs" means children who are

mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, other health impaired, deaf-blind, multihandicapped, severely handicapped, or children with specific learning disabilities, who require the special attention of adults in a child care setting. Children with exceptional needs who are between the ages of birth and 21 years, inclusive, shall also meet the criteria for that age group specified in Section 56026.

(*l*) "Children with special needs" includes infants to the age of two; limited-English-speaking and non-English-speaking children; children with exceptional needs; and children at risk of neglect, abuse, or exploitation.

(m) "Closedown costs" means reimbursements for all approved activities associated with the closing of operations at the end of each growing season for migrant child development programs only.

(n) "Contracting agency" means a private nonprofit agency, private proprietary agency, family child care provider, school district, community college district, county superintendent of schools, county welfare department, county, city, or other entity which is authorized to establish, maintain, or operate services pursuant to this chapter. Private agencies and parent cooperatives, duly licensed by law, shall receive the same consideration as any other authorized entity with no loss of parental decisionmaking prerogatives as consistent with the provisions of this chapter.

(o) "Cost" includes, but is not limited to, expenditures that are related to the operation of child development programs. "Cost" may include a reasonable amount for state and local contributions to employee benefits, including approved retirement programs, agency administration, and any other reasonable program operational costs.

(p) "Elementary school," as contained in Section 425 of Title 20 of the United States Code (the National Defense Education Act of 1958, Public Law 85-864, as amended), includes early childhood education programs and all child development programs, for the purpose of the cancellation provisions of loans to students in institutions of higher learning.

(q) "Group" means a cluster of children under the direct supervision of one or more caregivers.

(r) "Group size" means the total number of children assigned to one or more caregivers.

(s) "Severely handicapped children" means children under the age of six years who need intensive special education services and who satisfy the applicable requirements of Section 56026 or 56030.5, and children from age 6 to 21 years, inclusive, who meet the criteria established by Section 56030.5. These children, ages birth to 21 years, inclusive, may be assessed by public school special education staff, regional center staff, or another appropriately licensed clinical professional.

(t) "Health services" includes, but is not limited to, all of the

following:

(1) Referral, whenever possible, to appropriate health care providers able to provide continuity of medical care.

(2) Health screening and health treatment, including a full range of immunization recorded on the appropriate state immunization form to the extent provided by the Medi-Cal Act (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code) and the Child Health and Disability Prevention Program (Article 3.4 (commencing with Section 320) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code), but only to the extent that ongoing care cannot be obtained utilizing community resources.

(3) Health education and training for children, parents, staff, and providers.

(4) Followup treatment through referral to appropriate health care agencies or individual health care professionals.

(u) "Higher educational institutions" means the Regents of the University of California, the Trustees of the California State University, the Board of Governors of the California Community Colleges, and the governing bodies of any private nonprofit institution of postsecondary education.

(v) "Intergenerational staff" means persons of various generations.

(w) "Limited-English-speaking and non-English-speaking children" means children who are unable to benefit fully from an English-only child care and development program as a result of either of the following:

(1) Having used a language other than English when they first began to speak.

(2) Having a language other than English predominantly or exclusively spoken at home.

(x) "Parent" means any person living with a child who has responsibility for the care and welfare of the child.

(y) A "proprietary child care agency" means an organization or facility providing child care, which is operated for profit.

(z) "Resource and referral programs" means programs that provide information to parents, including referrals and coordination of community resources for parents and public or private providers of care. Services frequently include, but are not limited to: technical assistance for providers, toy-lending libraries, equipment-lending libraries, toy- and equipment-lending libraries, staff development programs, health and nutrition education, and referrals to social services.

(aa) "Respite child care" means child care service provided for less than 24 hours per day, to assist families whose children have been identified through referral as being neglected, abused, or exploited, or at risk of being neglected, abused, or exploited.

(bb) "Standard reimbursement rate" means that rate established by the Superintendent of Public Instruction pursuant to Section 8265.

(cc) "Startup costs" means those expenses an agency incurs in the process of opening a new or additional facility prior to the full enrollment of children.

(dd) "State preschool services" means part-day educational programs for low-income or otherwise disadvantaged prekindergarten-age children.

(ee) "Support services" means those services which, when combined with child care and development services, help promote the healthy physical, mental, social, and emotional growth of children. Support services include, but are not limited to: protective services, parent training, provider and staff training, transportation, parent and child counseling, child development resource and referral services, and child placement counseling.

(ff) "Teacher" means a person with the appropriate certificate who provides program supervision and instruction which includes supervision of a number of aides, volunteers, and groups of children.

(gg) "Workday" means the time that the parent requires temporary care for a child for any of the following reasons:

(1) To undertake training in preparation for a job.

(2) To undertake or retain a job.

(3) To undertake other activities which are essential to maintaining or improving the social and economic function of the family, are beneficial to the community, or are required because of health problems in the family.

SEC. 3. Section 8208.5 is added to the Education Code, to read:

8208.5. Notwithstanding any other provision of law, child care and development programs, as defined in Section 8208, shall include, but not be limited to, respite child care and development.

SEC. 4. Section 8265 of the Education Code is amended to read:

8265. (a) The Superintendent of Public Instruction shall implement a plan which establishes reasonable standards and assigned reimbursement rates, which vary with the length of the program year and the hours of service.

Actual reimbursement shall not, in any case, exceed actual program costs, and parent fees shall be deducted from the assigned reimbursement rate or actual costs, whichever is less.

When establishing standards and assigned reimbursement rates, the Superintendent of Public Instruction shall confer with applicant agencies.

The reimbursement system, including standards and rates, shall be submitted to the Joint Legislative Budget Committee.

The Superintendent of Public Instruction may establish any regulations he or she deems advisable concerning conditions of service and hours of enrollment for children in the programs.

(b) The standard reimbursement rate shall be three thousand five hundred twenty-three dollars ($3,523) per unit of average daily enrollment for a 250-day year, increased by the cost-of-living adjustment granted by the Legislature beginning July 1, 1980.

(c) The plan shall require agencies having an assigned

reimbursement rate above the current year standard reimbursement rate to reduce costs on an incremental basis to achieve the standard reimbursement rate.

(d) The plan shall provide for adjusting reimbursement on a case-by-case basis, in order to maintain service levels for agencies currently at a rate less than the standard reimbursement rate. Assigned reimbursement rates shall be increased only on the basis of one or more of the following:

(1) Loss of program resources from other sources.

(2) Need of an agency to pay the same child care rates as those prevailing in the local community.

(3) Increased costs directly attributable to new or different regulations.

(4) Documented increased costs necessary to maintain the prior year's level of service and ensure the continuation of threatened programs.

Child care agencies funded at the lowest rates shall be given first priority for increases.

(e) The plan shall provide for expansion of child development programs at no more than the standard reimbursement rate for that fiscal year.

(f) The Superintendent of Public Instruction may reduce the percentage of reduction for any public agency:

(1) Which is currently serving more than 400 children; or

(2) Which has in effect a collective bargaining agreement; or

(3) For which other extenuating circumstances apply as determined by the Superintendent of Public Instruction.

SEC. 4.5. Section 8265.7 is added to the Education Code, to read:

8265.7. Notwithstanding Section 8265, programs above the standard reimbursement rate may be considered on a case-by-case basis for rate adjustments due to documented increases in insurance costs.

SEC. 5. Section 8397 of the Education Code is amended to read:

8397. (a) Notwithstanding any other law, infants whose parent or parents are high school students may attend infant care and development centers while their parents attend high school.

(b) Notwithstanding any other law, commencing January 1, 1986, the Superintendent of Public Instruction may enter into an agreement pursuant to Section 8390 permitting infants whose parent or parents are students in grades 7 and 8 to attend infant care and development centers while their parents attend school.

SEC. 6. (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, 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	$1,400,000
(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	$500,000
(8)	Intergenerational child care	$500,000
(9)	Parent services projects	$500,000
(10)	Child development division study of severely handicapped needs	$75,000
(11)	California Child Care Initiative	$100,000
(12)	Staff development programs	$320,000
(13)	Program rate adjustments including increased insurance costs	$4,000,000
(14)	Cost-of-living adjustment of 6.19% for child development and state preschool programs	$6,126,000
(15)	All other child care and development programs	$3,879,000

(b) In contracting for the study for which seventy-five thousand dollars ($75,000) is allocated pursuant to paragraph (10) of subdivision (a), the Child Development Division shall require that the study do all of the following:

(1) Determine the range and extent of available services.

(2) Identify specific populations of children who are unserved or significantly underserved due to the nature and severity of their handicapping conditions.

(3) Make recommendations relevant to increasing the services available to those populations.

(4) Identify appropriate lines of communication and coordination with special education programs and activities.

(5) Investigate the availability of recent federal funds for services for handicapped children.

(c) In order to promote geographic equity in the distribution of the three million eight hundred seventy-nine thousand dollars ($3,879,000) to be allocated pursuant to paragraph (15) of subdivision (a), the Superintendent of Public Instruction shall disburse funds in accordance with all of the following procedures:

(1) To develop a formula to promote geographic equity, the superintendent shall use direct indicators of need for child care. These data shall be combined on a county by county basis. However, counties with populations of fewer than 50,000 persons shall receive

funding adequate to establish or expand at least one program. For the 1985–86 fiscal year, each of the following factors shall be given equal weight in the formula for allocation of funds:

(A) Each county's percentage of the number of women in the state's labor force.

(B) Each county's percentage of the number of children in the state who are younger than 14 years of age.

(C) Each county's percentage of the number of children in the state who receive Aid to Families with Dependent Children.

(2) The superintendent shall determine the total dollar amount allocated for each county for publicly subsidized child care services.

(3) The comparison of combined need with available public resources, as provided for in this section, shall guide the superintendent in determining the portion of funds for child care services pursuant to this chapter which will be available to applicant agencies from each county.

The size of the portions for expansion of child development services shall promote equal access to child development services for eligible families across the state by bringing the relative dollar amounts in each county into closer congruence with the relative need for child care services in each county.

(d) The one hundred thousand dollars ($100,000) appropriated pursuant to paragraph (11) of subdivision (a) to the Superintendent of Public Instruction for the purpose of matching private funds provided, as a part of the California Child Care Initiative, shall be allocated to child care resource and referral agencies in order to increase the availability of quality child care programs in the state. For the purposes of this subdivision, "California Child Care Initiative" means a demonstration project to expand the role and functions of selected resource and referral agencies in specific activities including needs assessment, recruitment and screening of providers, technical assistance, and staff development and training, in order to help communities build their capability in terms of both the number of child care spaces available and the quality of child care services offered. Development of a data base by the California Child Care Initiative Project shall be in accordance with guidelines established by the Superintendent of Public Instruction.

The superintendent shall allocate all state funds appropriated by this section to the San Francisco Foundation's California Child Care Initiative Fund for the purpose of making grants to those child care resource and referral agencies which have been selected as pilot sites for the California Child Care Initiative and have received matching grants for the initiative. The California Child Care Initiative shall insure that the state funds are matched with a minimum total four hundred thousand dollars ($400,000) contribution from private corporations and local governments. These funds shall be available without regard for fiscal year, except that any funds unexpended by July 1, 1988, shall revert to the General Fund.

(e) The State Department of Education shall, to the extent funds

are provided under paragraph (12) of subdivision (a), formally establish a state staff development plan and a child development staff development program. The program shall utilize, to the extent appropriate, the State Child Development Training Consortium of Community and State Colleges, other accredited public and private colleges, to provide onsite and offsite classes responsive to practitioner needs, and alternative staff development such as accredited short-term institutes and scholarships in the form of deferred tuition and the cost of books, materials, and supplies.

(f) Of the amounts appropriated, up to 3 percent, but not less than 1½ percent of the appropriations shall be allocated to the State Department of Education for the administration of this program for the 1985–86 fiscal year.

(g) The State Department of Education, the Department of Finance, and the office of the Legislative Analyst shall develop a workload standard for the audit, accounting, and legal analysis of contracts in the Office of Child Development. The development of these standards shall be used as a basis for the Office of Child Development budget beginning in the 1986–87 Budget Act. The workload standards shall be developed and submitted to the fiscal committees of the Legislature no later than March 31, 1986.

Funds appropriated by this act shall be expended at a rate during the 1985–86 fiscal year either so as not to exceed an annualized rate of thirty million dollars ($30,000,000) or in proportion to the amount approved in the schedule in subdivision (a).

SEC. 7. Funds appropriated for the purposes of this act shall not be included within "the total amount of money allocated for public education in California," as that term is used in Section 8880.1 of the Government Code, as added by the California State Lottery Act of 1984.

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 for the State Department of Education to implement this act at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1365

An act to add Section 425.3 to the Government Code, relating to the state gemstone.

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

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

SECTION 1. Section 425.3 is added to the Government Code, to read:

425.3. Benitoite is the official state gemstone.

CHAPTER 1366

An act to amend Sections 25208.3 and 25208.4 of, and to add Section 25208.16 to, the Health and Safety Code, relating to hazardous waste.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 25208.3 of the Health and Safety Code is amended to read:

25208.3. (a) On or before July 1, 1985, the state board shall, by emergency regulation, adopt a fee schedule which assesses a fee upon any person discharging any liquid hazardous wastes or hazardous wastes containing free liquids into a surface impoundment. The state board shall include in this fee schedule the fees charged for applications for, and renewals of, an exemption from Section 25208.5, as specified in subdivision (h) of Section 25208.5, from subdivision (a) of Section 25208.4, as specified in subdivision (b) of Section 25208.4, from subdivision (c) of Section 25208.4 as specified in Section 25208.16, and from Sections 25208.4 and 25208.5, as specified in subdivision (e) of Section 25208.13. The state board shall also include provisions in the fee schedule for assessing a penalty pursuant to subdivision (c). The state board shall set these fees at an amount equal to the state board's and regional board's reasonable and anticipated costs of administering this article.

(b) The emergency regulations which set the fee schedule shall be adopted by the state board in accordance with 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 that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as 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, any emergency regulations adopted by the state board pursuant to this section shall be filed with, but not be repealed by, the Office of Administrative Law and shall remain in effect until revised by the state board.

(c) The state board shall send a notice to each person subject to

the fee specified in subdivision (a). If a person fails to pay the fee within 60 days after receipt of this notice, the state board shall require the person to pay an additional penalty fee. The state board shall set the penalty fee at not more than 100 percent of the assessed fee, but in an amount sufficient to deter future noncompliance, as based upon that person's past history of compliance and ability to pay, and upon additional expenses incurred by this noncompliance.

(d) The state board shall collect and deposit the fees collected pursuant to this section in the Surface Impoundment Assessment Account, which is hereby created in the General Fund. The money within the Surface Impoundment Assessment Account is available, upon appropriation by the Legislature, to the state board and the regional boards for purposes of administering this article.

SEC. 2. Section 25208.4 of the Health and Safety Code, as amended by Section 1 of Chapter 117 of the Statutes of 1985, 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 25208.16, 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. 3. Section 25208.4 of the Health and Safety Code, as added by Section 2 of Chapter 117 of the Statutes of 1985, is amended 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 or 25208.16.

(d) This section shall become operative on January 1, 1989.

SEC. 4. Section 25208.16 is added to the Health and Safety Code, to read:

25208.16. (a) A person may apply to the regional board for an exemption from paragraph (2) of subdivision (c) of Section 25208.4 for a surface impoundment into which restricted hazardous wastes which do not contain cyanide wastes or polychlorinated biphenyls (PCBs) in concentrations specified in paragraphs (1) and (4) of subdivision (a) of Section 25122.7 are discharged for the purpose of onsite temporary storage and treatment by filing an application with the regional board. If the surface impoundment was constructed before January 1, 1984, the person shall file the application with a regional board by March 1, 1986. The initial application for exemption shall include a completed hydrogeological assessment report which contains the accurate data and documentation specified in Section 25208.8. A regional board may grant the applicant an exemption from paragraph (2) of subdivision (c) of Section 25208.4, if the regional board makes all of the following findings:

(1) No extremely hazardous wastes are currently being discharged into the surface impoundment, and either one of the following applies:

(A) The records of the person applying for an exemption indicate that no extremely hazardous wastes have been discharged into the surface impoundment.

(B) Extremely hazardous wastes are not present in the surface impoundment, in the vadose zone, or in the waters of the state.

(2) The surface impoundment is used for the purpose of temporary storage and noncontinuous batch treatment, all hazardous wastes are removed after each batch treatment within 30 days of discharge into the impoundment, and the surface impoundment is visually inspected prior to each use and tested for integrity at least annually and complies with subdivision (a) of Section 25208.7. A report of this test shall be filed with the regional board.

(3) The surface impoundment is in compliance with Section 25208.5 and a report has been filed pursuant to Section 25208.8.

(b) For purposes of this section, "treatment" means any method of neutralization and precipitation of metals from an acidic solution which changes the physical or chemical characteristics of the restricted hazardous waste so as to render it less harmful to the quality of the waters of the state, safer to handle, or easier to contain or manage.

(c) An exemption granted pursuant to subdivision (a) shall not be effective for more than five years. A regional board shall not renew the exemption unless the regional board makes the findings specified in subdivision (a).

(d) Applications for an exemption or 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.

(e) If a regional board determines that a surface impoundment granted an exemption pursuant to subdivision (a) is polluting, or threatening to pollute, the waters of the state, the regional board shall take all of the actions specified in Section 25208.6.

(f) The exemption authorized by this section shall be available only for surface impoundments used for the temporary storage and treatment of boiler cleaning wastes at fossil-fueled powerplants owned or operated by a public utility subject to the jurisdiction of the Public Utilities Commission used to generate electricity for sale to the public.

(g) For purposes of this section, any surface impoundment located within one-half mile up gradient of a potential source of drinking water shall comply with the requirements for double liners, leachate collection systems, and groundwater monitoring specified in subdivision (a) of Section 25208.5 and shall not be granted an exemption pursuant to subdivision (c) of Section 25208.5.

(h) For purposes of this section, any surface impoundment not located within one-half mile up gradient of a potential source of drinking water shall be equipped with double liners, a leachate collection system, and groundwater monitoring. The leachate collection system and groundwater monitoring required by this subdivision shall be consistent with the requirements specified in subdivision (a) of Section 25208.5. The requirements for double liners in this section may be satisfied by double liners made of synthetic or other materials with a permeability of not more than 1×10^{-7} centimeters per second. If a substantial breach of the top liner in any surface impoundment covered by this subdivision is detected through inspection, testing, or otherwise, the integrity of the top liner shall be restored prior to the next subsequent use of the impoundment.

CHAPTER 1367

An act to amend Sections 2821, 4151, and 4217 of the Revenue and Taxation Code, relating to taxation.

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

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

SECTION 1. Section 2821 of the Revenue and Taxation Code is amended to read:

2821. Any person filing an affidavit of interest may apply to the tax collector to have any parcel separately valued on the current roll for the purpose of paying taxes. A county may, upon approval of the board of supervisors, require that the applicant notify the property owner.

The application shall be made during the current fiscal year, and shall set forth the fact that a duly executed and recorded deed, purchase contract, deed of trust, mortgage, or final decree of court describes the parcel sought to be separately valued. A county may, upon approval of the board of supervisors, prohibit such applications during the 10-day period preceding each tax installment delinquent date and during the 10-day period prior to June 30th of each year.

The application may request that the tax created by the assessment of personal property, or leasehold improvements, or possessory interests on the whole assessment be allowed to remain as a lien on the parcel sought to be separately valued.

If any lien not determined by the application of a tax rate on a valuation of property has been levied or placed on the whole assessment, the application may be accompanied by the certification of the taxing agency or revenue district authorized by law to levy or place the lien, setting forth the specific amount of that portion of the lien levied or placed on the whole assessment which is to continue to be levied or placed on the parcel sought to be separately valued.

The board of supervisors may provide that a parcel with a lien against it and other property, pursuant to the Improvement Act of 1911, Division 7 (commencing with Section 5000) of the Streets and Highways Code, or the Improvement Bond Act of 1915, Division 10 (commencing with Section 8500) of the Streets and Highways Code, will not be separately valued unless a request has been made to the agency levying the bond lien for a division of land and bond. A copy of the requested division of land and bond shall accompany the request for separate property tax valuation.

Any separations of property pursuant to this section are for valuing property for tax purposes only, and are not intended to create a legal building site or to supersede requirements pursuant to zoning, building, lot split or subdivision ordinances.

Upon authorization by ordinance by the board of supervisors, the

tax collector may charge an application fee for actual costs incurred for the processing of an application for the separate valuation of any parcel on the current roll. Fees shall be governed by the provisions of Chapter 12.5 (commencing with Section 54985) of Part 1 of Division 2 of Title 5 of the Government Code.

SEC. 2. Section 4151 of the Revenue and Taxation Code is amended to read:

4151. Any person filing an affidavit of interest may apply to the tax collector to have any parcel separately valued in order that it may be redeemed under the provisions of this chapter. The tax collector may file an application to have any parcel separately valued when such application is based on the fact that the parcel sought to be separately valued is separately assessed on the current roll.

The application shall set forth the fact that a duly executed and recorded deed, purchase contract, deed of trust, mortgage, or final decree of court describes the parcel sought to be separately valued.

The application may request that the tax created by the assessment of personal property, or leasehold improvements, or possessory interests on the whole assessment for each of the years for which it was delinquent be allowed to remain as a lien on the parcel sought to be separately valued.

If any lien not determined by the application of a tax rate on a valuation of property has been levied or placed on the whole assessment, the application may be accompanied by the certification of the taxing agency or revenue district authorized by law to levy or place the lien, setting forth the specific amount of that portion of the lien levied or placed on the whole assessment which is to continue to be levied or placed on the parcel sought to be separately valued for each of the years for which it was delinquent.

Upon authorization by ordinance by the board of supervisors, the tax collector may charge an application fee for the actual cost incurred for the processing of an application for the separate valuation of any parcel for redemption under the provisions of this chapter. The fee shall be governed by the provisions of Chapter 12.5 (commencing with Section 54985) of Part 1 of Division 2 of Title 5 of the Government Code.

SEC. 3. 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 was sold to the state and prior to the deeding to the state, 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 subject to deed during the calendar year in which default 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.

Persons electing to pay delinquent taxes in installments may be

subject to a fee for processing their request.

The fee for payment of delinquent taxes in installments to the tax collector may be established by ordinance by the board of supervisors. The fee shall be governed by the provisions of Chapter 12.5 (commencing with Section 54985) of Part 1 of Division 2 of Title 5 of the Government Code.

SEC. 4. 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.

Persons electing to pay delinquent taxes in installments may be subject to a fee for processing their request.

The fee for payment of delinquent taxes in installments to the tax collector may be established by ordinance by the board of supervisors. The fee shall be governed by the provisions of Chapter 12.5 (commencing with Section 54985) of Part 1 of Division 2 of Title 5 of the Government Code.

SEC. 5. Section 4 of this bill incorporates amendments to Section 4217 of the Revenue and Taxation Code proposed by both this bill and AB 634. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 4217 of the Revenue and Taxation Code, and (3) this bill is enacted after AB 634, in which case Section 3 of this bill shall not become operative.

CHAPTER 1368

An act to amend Section 3440 of, to amend and renumber Sections 3441, 3442, and 3443 of, and to add Sections 3440.2, 3440.3, 3440.4, and 3440.6 to, the Civil Code, and to amend Sections 6103 and 9501 of the Commercial Code, relating to creditors' remedies.

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

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

SECTION 1. Section 3440 of the Civil Code is amended to read:

3440. (a) Except as otherwise provided in this chapter, every transfer of personal property made by a person having at the time the possession of the property, and not accompanied by an immediate delivery followed by an actual and continued change of possession of the property, is void as against the transferor's creditors (secured or unsecured) at the time of the transfer and those who become creditors while the transferor remains in possession and the successors in interest of those creditors, and as against buyers from the transferor for value in good faith subsequent to the transfer.

(b) As used in this chapter, "creditor" has the same meaning specified in Section 3439.01 and includes an assignee under a general assignment for the benefit of creditors, as defined in Section 493.010 of the Code of Civil Procedure, and any person to whom the transferor's estate devolves in trust for the benefit of persons other than the transferor, who may exercise any or all of the rights provided in this chapter, if and to the the extent they are available to any one or more creditors of the assignor or transferor.

SEC. 2. Section 3440.2 is added to the Civil Code, to read:

3440.2. Subject to Section 3440.3, a transfer of personal property shall not be void under Section 3440 as against a creditor of the transferor or as against a buyer from the transferor, if the creditor's or buyer's claim or right against the transferor arises after the date all of the requirements of subdivision (h) of Section 3440.1 have been met, other than the requirement that filing of the financing statement and publication of the notice referred to therein be completed prior to the transfer.

SEC. 3. Section 3440.3 is added to the Civil Code, to read:

3440.3. A transfer of personal property, as to which the conditions set forth in subdivision (h) of Section 3440.1, Section 3440.2, or subdivision (b) of Section 3440.5 are satisfied, shall, nevertheless, be void under Section 3440 as against a person who has purchased the personal property from the transferor and who is a "buyer in the ordinary course of business," as defined in subdivision (9) of Section 1201 of the Commercial Code.

SEC. 4. Section 3440.4 is added to the Civil Code, to read:

3440.4. This chapter does not affect the rights of a buyer for value in good faith who purchases the transferred personal property from the transferee or from a successor in interest of the transferee, provided the transferor is no longer in possession of the personal property at the time of the purchase by that buyer.

SEC. 5. Section 3440.6 is added to the Civil Code, to read:

3440.6. No action shall be brought or levy made under this chapter more than one year after the earliest of the following dates:

(a) The date the person bringing the action or making the levy should have discovered the transfer in the exercise of reasonable diligence.

(b) The date the person bringing the action or making the levy obtained actual knowledge of the transfer.

(c) The date the delivery of, and actual and continued change of possession of, the property transferred occurred.

(d) If the financing statement filed pursuant to subdivision (h) of Section 3440.1 has not lapsed, the date the filing and publication requirements of subdivision (h) of Section 3440.1 were met, other than the requirement that the filing of the financing statement and publication of the notice referred to therein be completed prior to the transfer.

SEC. 6. Section 3441 of the Civil Code is amended and renumbered to read:

3440.1. This chapter does not apply to any of the following:

(a) Things in action.

(b) Ships or cargoes if either are at sea or in a foreign port.

(c) The sale of accounts or chattel paper governed by the Uniform Commercial Code, security interests, and contracts of bottomry or respondentia.

(d) Wines or brandies in the wineries, distilleries, or wine cellars of the makers or owners of the wines or brandies, or other persons having possession, care, and control of the wines or brandies, and the pipes, casks, and tanks in which the wines or brandies are contained, if the transfers are made in writing and executed and acknowledged, and if the transfers are recorded in the book of official records in the office of the county recorder of the county in which the wines, brandies, pipes, casks, and tanks are situated.

(e) A transfer or assignment made for the benefit of creditors generally or by any assignee acting under an assignment for the benefit of creditors generally.

(f) Property exempt from enforcement of a money judgment.

(g) Standing timber.

(h) Subject to the limitations in Section 3440.3, a transfer of personal property if all of the following conditions are satisfied:

(1) Prior to the date of the intended transfer, the transferor or the transferee files a financing statement, with respect to the property transferred, signed by the transferor. The financing statement shall be filed in the office of the Secretary of State in accordance with Chapter 4 (commencing with Section 9401) of Division 9 of the Commercial Code, but may use the terms "transferor" in lieu of "debtor" and "transferee" in lieu of "secured party." The provisions of Chapter 4 (commencing with Section 9401) of Division 9 of the Commercial Code shall apply as appropriate to the financing statement.

(2) The transferor or the transferee publishes a notice of the intended transfer one time in a newspaper of general circulation published in the judicial district in which the personal property is located, if there is one, and if there is none in the judicial district, then in a newspaper of general circulation in the county embracing the judicial district. The publication shall be completed not less than

10 days before the date the transfer occurs. The notice shall contain the name and address of the transferor and transferee and a general statement of the character of the personal property intended to be transferred, and shall indicate the place where the personal property is located and a date on or after which the transfer is to be made.

(i) Personal property not located within this state at the time of the transfer or attachment of the lien if the provisions of this subdivision are not used for the purpose of evading this chapter.

(j) A transfer of property which (1) is subject to a statute or treaty of the United States or a statute of this state that provides for the registration of transfers of title or issuance of certificates of title and (2) is so far perfected under that statute or treaty that a bona fide purchaser cannot acquire an interest in the property transferred that is superior to the interest of the transferee.

SEC. 9. Section 3442 of the Civil Code is amended and renumbered to read:

3440.5. (a) This chapter does not affect the rights of a secured party who, for value and in good faith, acquires a security interest in the transferred personal property from the transferee, or from the transferee's successor in interest, if the transferor is no longer in possession of the personal property at the time the security interest attaches.

(b) Additionally, except as provided in Section 3440.3, this chapter does not affect the rights of a secured party who acquires a security interest from the transferee, or from the tranferee's successor in interest, in the personal property, if all of the following conditions are satisfied:

(1) On or before the date the security agreement is executed, the intended debtor or secured party files a financing statement with respect to the property transferred, signed by the intended debtor. The financing statement shall be filed in the office of the Secretary of State in accordance with Chapter 4 (commencing with Section 9401) of Division 9 of the Commercial Code, but shall use the terms "transferor" in lieu of "debtor," "transferee" in lieu of "secured party," and "secured party" in lieu of "assignee of secured party." The provisions of Chapter 4 (commencing with Section 9401) of Division 9 of the Commercial Code shall apply as appropriate to such a statement. For the purpose of indexing, and in any certification of search, the Secretary of State may refer to any financing statement filed pursuant to this paragaph as a financing statement under the Commercial Code and may describe the transferor as a debtor and the transferee as a secured party.

Compliance with this paragraph shall, however, not perfect the security interest of the secured party. Perfection of such a security interest shall be governed by Division 9 (commencing with Section 9101) of the Commercial Code.

(2) The intended debtor or secured party publishes a notice of the transfer one time in a newspaper of general circulation published in the judicial district in which the personal property is located, if there

is one, and if there is none in the judicial district, then in a newspaper of general circulation in the county embracing the judicial district. The publication shall be completed not less than 10 days before the date of execution by the intended debtor of the intended security agreement. The notice shall contain the names and addresses of the transferor and transferee and of the intended debtor and secured party, a general statement of the character of the personal property transferred and intended to be subject to the security interest, the location of the personal property, and the date on or after which the security agreement is to be executed by the intended debtor.

SEC. 10. Section 3443 of the Civil Code is amended and renumbered to read:

3440.9. Subdivision (2) of Section 2402 of the Commercial Code is not restricted by the provisions of this chapter.

SEC. 11. Section 6103 of the Commercial Code is amended to read:

6103. The following transfers are not subject to this division:

(1) A transfer of personal property, if the personal property is leased back to the transferor immediately following the transfer, and if there has been compliance with subdivision (h) of Section 3440.1 of the Civil Code with respect to the transfer.

(2) Assignments for the benefit of all the creditors of the transferor, and subsequent transfers by the assignee thereunder.

(3) Transfers of property subject to a lien or other security interest in settlement or realization of such lien or other security interest.

(4) Sales by executors, administrators, receivers, trustees in bankruptcy, or any public officer under judicial process.

(5) Sales made in the course of judicial or administrative proceedings for the dissolution or reorganization of a corporation and of which notice is sent to the creditors of the corporation pursuant to order of the court or administrative agency.

(6) Transfers of property which is exempt from enforcement of a money judgment.

(7) The transfer of goods in a warehouse where a warehouse receipt has been issued therefor by a warehouseman (Section 7102) and a copy of such receipt is kept at the principal place of business of the warehouseman and at the warehouse in which said goods are stored.

(8) A transfer which is subject to and complies with Article 5 (commencing with Section 24070) of Chapter 6 of Division 9 of the Business and Professions Code, except that such transfer shall be subject to subdivision (1) of Section 6105 insofar as it refers to Section 6107, Section 6107 other than paragraph (e) of subdivision (1) thereof, and subdivision (a) of Section 6111.

SEC. 12. Section 9501 of the Commercial Code, as amended by Senate Bill No. 1305 of the 1985–86 Regular Session, is amended to read:

9501. (1) When a debtor is in default under a security

agreement, a secured party has the rights and remedies provided in this chapter and except as limited by subdivision (3) those provided in the security agreement. The secured party may reduce his or her claim to judgment, foreclose or otherwise enforce the security interest by any available judicial procedure. If the collateral is documents the secured party may proceed either as to the documents or as to the goods covered thereby. A secured party in possession has the rights, remedies and duties provided in Section 9207. The rights and remedies referred to in this subdivision are cumulative.

(2) After default, the debtor has the rights and remedies provided in this chapter, those provided in the security agreement and those provided in Section 9207.

(3) To the extent that they give rights to the debtor and impose duties on the secured party, the rules stated in the subdivisions referred to below may not be waived or varied except as provided with respect to compulsory disposition of collateral (subdivision (3) of Section 9504 and Section 9505) and with respect to redemption of collateral (Section 9506) but the parties may by agreement determine the standards by which the fulfillment of these rights and duties is to be measured if such standards are not manifestly unreasonable:

(a) Subdivision (2) of Section 9502 and subdivision (2) of Section 9504 insofar as they require accounting for surplus proceeds of collateral;

(b) Subdivision (3) of Section 9504 and subdivision (1) of Section 9505 which deal with disposition of collateral;

(c) Subdivision (2) of Section 9505 which deals with acceptance of collateral as discharge of obligation;

(d) Section 9506 which deals with redemption of collateral; and

(e) Subdivision (1) of Section 9507 which deals with the secured party's liability for failure to comply with this chapter.

(4) If an obligation secured by personal property or fixtures (Section 9313(1)(a)) is also secured by real property:

(a) The secured party may do any of the following:

(i) Proceed, in any sequence, (1) in accordance with the secured party's rights and remedies in respect of real property as to the real property security, and (2) in accordance with this chapter as to the personal property or fixtures.

(ii) Proceed in any sequence, as to both some or all of the real property and some or all of the personal property or fixtures in accordance with the secured party's rights and remedies in respect of the real property, by including the portion of the personal property or fixtures selected by the secured party in the judicial or nonjudicial foreclosure of the real property in accordance with the procedures applicable to real property. In proceeding under this subparagraph, a power of sale under the deed of trust or mortgage shall be exercisable with respect to both the real property and the personal property or fixtures being sold, and the sale may be

conducted by the mortgagee under the mortgage or by the trustee under the deed of trust. The secured party shall not be deemed to have elected irrevocably to proceed as to both real property and personal property or fixtures as provided in this subparagraph with respect to any particular property, unless and until that particular property has been actually disposed of pursuant to a unified sale (judicial or nonjudicial) conducted in accordance with the procedures applicable to real property, and then only as to the property so sold.

(iii) Proceed, in any sequence, as to part of the personal property or fixtures as provided in subparagraph (i), and as to other of the personal property or fixtures as provided in subparagraph (ii).

(b) Except as otherwise provided in paragraph (c), provisions and limitations of any law respecting real property and obligations secured by real property, including, but not limited to, Section 726 of the Code of Civil Procedure, provisions regarding acceleration or reinstatement of obligations secured by real property, prohibitions against deficiency judgments, and limitations on the right to proceed as to collateral, do not in any way apply to either (1) any personal property or fixtures as to which the secured party has proceeded or is proceeding in accordance with the secured party's rights and remedies as permitted under this chapter, or (2) the obligation secured by the personal property or fixtures.

(c) (i) Paragraph (b) does not limit the application of Section 580b of the Code of Civil Procedure.

(ii) If, in proceeding solely with respect to personal property or fixtures, the secured party commences a judicial action against the debtor (subdivision (1) or (5)), that judicial action shall constitute an action within the meaning of Section 726 of the Code of Civil Procedure if and only if a monetary judgment on the debt is sought against the debtor, and that action shall result in the subsequent unenforceability of the encumbrance on any real property not included in that action only if and when a monetary judgment on the debt is obtained against the debtor.

(iii) Nothing in paragraph (b) shall be construed to excuse compliance with Section 2924c of the Civil Code as a prerequisite to the nonjudicial sale of real property, but that section has no application to the right of a secured party to proceed as to personal property or fixtures.

(iv) Paragraph (b) does not deprive the debtor of the protection of Section 580d of the Code of Civil Procedure against a deficiency judgment following a sale of the real property collateral pursuant to a power of sale in a deed of trust or mortgage.

(v) Paragraph (b) does not apply to a loan or credit sale made to any individual primarily for personal, family, or household purposes.

(d) If the secured party realizes proceeds from the disposition of collateral that is personal property or fixtures, the following provisions shall apply:

(i) The disposition of the collateral, the realization of the

proceeds, the application of the proceeds, or any one or more of the foregoing shall not operate to cure any nonmonetary default.

(ii) The disposition of the collateral, the realization of the proceeds, the application of the proceeds, or any one or more of the foregoing shall not operate to cure any monetary default (although the application of the proceeds shall, to the extent of those proceeds, satisfy the secured obligation) so as to affect in any way the secured party's rights and remedies under this chapter with respect to any remaining personal property or fixtures collateral.

(e) An action by the secured party utilizing any available judicial procedure, as provided in subdivision (1), shall in no way be affected by omission of a prayer for a monetary judgment on the debt. A judicial action which neither prays for nor results in a monetary judgment on the debt shall not preclude a subsequent action seeking a monetary judgment on the debt.

(f) As used in this subdivision, "monetary judgment on the debt" means a judgment for the recovery from the debtor of all or part of the principal amount of the secured obligation, including, for purposes of this subdivision, contractual interest thereon. "Monetary judgment on the debt" does not include a judgment which provides only for other relief (whether or not that other relief is secured by the collateral), such as one or more forms of nonmonetary relief, and monetary relief ancillary to any of the foregoing, such as attorneys' fees and costs incurred in seeking the relief.

(g) If a secured party fails to comply with any of the requirements of this chapter in proceeding as to both real and personal property under subparagraph (ii) of paragraph (a):

(i) A purchaser for value of any interest in the real property at judicial or nonjudicial foreclosure proceedings conducted pursuant to subparagraph (ii) of paragraph (a) takes that interest free from any claim or interest of another person, or any defect in title, based upon that noncompliance, unless:

(A) The purchaser is the secured party and the failure to comply with this chapter occurred other than in good faith; or

(B) The purchaser is other than the secured party and at the time of sale of the real property at that foreclosure the purchaser had actual knowledge of the failure to comply with this chapter and that the noncompliance occurred other than in good faith.

Even if the purchaser at the foreclosure sale does not take his or her interest free of claims, interests, or title defects based upon that noncompliance with this chapter, a subsequent purchaser for value who acquires an interest in that real property from the purchaser at that foreclosure takes that interest free from any claim or interest of another person, or any defect in title, based upon that noncompliance, unless at the time of acquiring the interest the subsequent purchaser has actual knowledge of the failure to comply with this chapter and that the noncompliance occurred other than in good faith.

(ii) Rights in personal property or fixtures sold at judicial or

nonjudicial foreclosure proceedings pursuant to subparagraph (ii) of paragraph (a) shall be governed by subdivision (4) of Section 9504.

(5) When a secured party has reduced his or her claim to judgment the lien of any levy which may be made upon his or her collateral by virtue of any execution based upon the judgment shall relate back to the date of the perfection of the security interest in the collateral. A judicial sale, pursuant to that execution, is a foreclosure of the security interest by judicial procedure within the meaning of this section, and the secured party may purchase at the sale and thereafter hold the collateral free of any other requirements of this division.

SEC. 13. The amendments to Section 9501 of the Commercial Code made by Section 12 of this act shall not become operative, unless Senate Bill No. 1305 of the 1985–86 Regular Session is enacted and is effective January 1, 1986, and this bill is enacted after Senate Bill No. 1305.

CHAPTER 1369

An act to amend Sections 311, 493, 1036, 2100, 3551, 3573, 3615, 5284, 5373, and 5373.1 of, and to add Sections 422.1, 1033.5, and 1038.5 to, the Public Utilities Code, relating to public utilities, and making an appropriation therefor.

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

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

SECTION 1. Section 311 of the Public Utilities Code is amended to read:

311. The commission, each commissioner, the executive director, and the assistant executive directors may administer oaths, certify to all official acts, and issue subpoenas for the attendance of witnesses and the production of papers, waybills, books, accounts, documents, and testimony in any inquiry, investigation, hearing, or proceeding in any part of the state.

The administrative law judges may administer oaths, examine witnesses, issue subpoenas, and receive evidence, under rules that the commission adopts. The commission, upon scheduling hearings and specifying the scope of issues to be heard in any proceeding involving an electrical, gas, telephone, railroad, or water corporation, or a highway carrier, shall assign an administrative law judge to preside over the hearings, either sitting alone or assisting the commissioner or commissioners who will hear the case. The administrative law judge shall prepare and file an opinion setting forth recommendations, findings, and conclusions. The opinion of the administrative law judge shall become the proposed decision and

a part of the public record in the proceeding. The evidence in any hearing shall be taken by the administrative law judge designated for that purpose. The proposed decision of the administrative law judge shall be filed with the commission and served upon all parties to the action or proceeding without undue delay, and, in the case of a proceeding involving an electrical, gas, or telephone corporation, or a highway carrier, shall not be later than 90 days after the matter has been submitted for decision. The commission may, in issuing its decision, adopt, modify, or set aside the proposed decision or any part thereof. Every finding, opinion, and order made in the proposed decision and approved or confirmed by the commission shall, upon that approval or confirmation, be the finding, opinion, and order of the commission.

The commission may specify that the administrative law judge assigned to a proceeding involving an electrical, gas, telephone, railroad, or water corporation, or a highway carrier, initiated by ratepayer or subscriber complaint need not prepare, file, and serve an opinion, unless the commission finds this is required in the public interest in a particular case.

SEC. 2. Section 422.1 is added to the Public Utilities Code, to read:

422.1. In addition to the requirements of Section 422, the commission may establish a uniform annual fee to be paid by every charter-party carrier of passengers.

SEC. 3. Section 493 of the Public Utilities Code is amended to read:

493. (a) No common carrier subject to this part shall engage or participate in the transportation of persons or property, between points within this state, until its schedules of rates, fares, charges, and classifications have been filed and published in accordance with this part.

(b) If any common carrier of property, in contravention of subdivision (a), transports any property for which it does not have schedules of rates, fares, charges, and classifications on file, the commission may establish a just and reasonable charge for the transportation.

SEC. 4. Section 1033.5 is added to the Public Utilities Code, to read:

1033.5. (a) The commission may, at any time for good cause, suspend an operating right acquired by virtue of operations conducted on July 29, 1927, or a certificate of public convenience and necessity and, upon notice to the holder and opportunity to be heard, revoke, alter, or amend the operating right or certificate.

(b) As an alternative to the suspension, revocation, alteration, or amendment of an operating right or certificate, the commission may impose upon the holder a fine not to exceed five thousand dollars ($5,000). The commission may assess interest upon any fine imposed, the interest to commence upon the day the payment of the fine is delinquent. All fines and interest collected shall be deposited at least

once each month in the Public Utilities Commission Transportation Reimbursement Account in the General Fund.

SEC. 5. Section 1036 of the Public Utilities Code is amended to read:

1036. Each application for a certificate of public convenience and necessity made under this article shall be accompanied by a fee of five hundred dollars ($500), unless the applicant is already operating in the immediate vicinity under the jurisdiction of the commission.

SEC. 6. Section 1038.5 is added to the Public Utilities Code, to read:

1038.5. A passenger stage corporation shall not operate any motor vehicle on a public highway unless there is displayed on the vehicle a distinctive identifying symbol in the form prescribed by the commission, showing the classification to which the vehicle belongs. The identifying symbol shall not be displayed until a certificate of public convenience and necessity has been issued under this chapter for the operation.

The identifying symbol displayed by a passenger stage corporation subject to the Interstate Commerce Commission shall serve in lieu of the display requirements of this section.

SEC. 7. Section 2100 of the Public Utilities Code is amended to read:

2100. Whenever the commission, after a hearing, finds that any common carrier, other than a railroad corporation, has charged, collected, or received a lesser compensation for the transportation of persons or property, or for any service in connection therewith, than the applicable rates, fares, and charges specified in its tariff schedules filed and in effect at the time, or that the carrier has refunded or remitted in any manner or by any device any portion of the rates, fares, or charges so specified without an order of the commission so authorizing, or charged, collected, or received a lesser compensation than that established by the commission under subdivision (b) of Section 493, the commission shall require the carrier to collect the undercharges involved and may impose upon the carrier a fine equal to the amount of the undercharges. These fines shall be deposited in the General Fund.

The remedy and penalty provided by this section shall be cumulative and shall not be a bar to or affect any other remedy or penalty provided for in this part, or to the exercise by the commission of its power to punish for contempt.

SEC. 8. Section 3551 of the Public Utilities Code is amended to read:

3551. (a) No person or corporation, whether or not organized under the laws of this state, shall acquire or control either directly or indirectly any highway carrier organized and doing business in this state without first securing authorization to do so from the commission. Any acquisition or control without that prior authorization is void and of no effect. No highway carrier organized and doing business under the laws of this state shall aid or abet any

violation of this subdivision.

(b) Each application to acquire or control a highway common carrier or a cement carrier under this section shall be accompanied by a fee of one hundred fifty dollars ($150).

SEC. 9. Section 3573 of the Public Utilities Code is amended to read:

3573. Any operating permit not exercised for a period of one year, inclusive of all periods of suspension, shall lapse and terminate.

SEC. 10. Section 3615 of the Public Utilities Code is amended to read:

3615. Any operating permit not exercised for a period of one year, inclusive of all periods of suspension, shall lapse and terminate and shall be revoked by the commission. Nonexercise of a permit shall be presumed from nonpayment of the fees required by Chapter 6 (commencing with Section 5001) for four consecutive quarters.

SEC. 11. Section 5284 of the Public Utilities Code is amended to read:

5284. A permit shall remain in effect until suspended or terminated as provided in this chapter. Any permit not exercised for a period of one year, inclusive of all periods of suspension, shall lapse and terminate.

No permit shall be sold, leased, assigned, or otherwise transferred or encumbered by the holder thereof without first having secured from the commission an order authorizing the transfer or encumbrance. The commission shall not authorize any transfer or encumbrance of a permit except pursuant to a finding made by the commission that the permit authorized to be transferred or encumbered has not lapsed or been terminated by nonexercise as provided in this section. Any sale, lease, assignment, or other transfer or encumbrance is void unless made in accordance with the order of the commission authorizing it.

SEC. 12. Section 5373 of the Public Utilities Code is amended to read:

5373. Each annual application for a permit to act as a charter-party carrier of passengers pursuant to this chapter shall be accompanied by a filing fee of three hundred dollars ($300). Each certificate to act as a charter-party carrier of passengers shall be accompanied by an annual renewal fee of three hundred dollars ($300).

SEC. 13. Section 5373.1 of the Public Utilities Code is amended to read:

5373.1. Each initial application for a certificate or permit shall be accompanied by a filing fee as follows:

(a) Class A certificates—five hundred dollars ($500).

(b) Class B certificates—five hundred dollars ($500).

(c) Permits—five hundred dollars ($500).

SEC. 14. The sum of fifty-five thousand dollars ($55,000) is hereby appropriated from the Transportation Rate Fund to the Public Utilities Commission for the purpose of implementing the

changes made to Section 311 of the Public Utilities Code by Section 1 of this act.

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 1370

An act to amend Sections 50801, 50802, 50804, and 50805 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 October 1, 1985. Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 50801 of the Health and Safety Code is amended to read:

50801. As used in this chapter:

(a) "Eligible recipient" means an agency of local government or a nonprofit organization which provides, or contracts with recognized community organizations to provide, emergency or temporary shelter for the homeless.

(b) "Department" means the Department of Housing and Community Development.

SEC. 2. Section 50802 of the Health and Safety Code is amended to read:

50802. (a) The department shall adopt guidelines to govern the equitable distribution of funds in accordance with the intent and provisions of this chapter. The total amount of funds allocated to eligible recipients within each county shall be based upon a formula which takes into account the relative number of persons in poverty within each county as compared to the state as a whole. To the extent feasible when distributing funds, the department shall also take into account the relative number of homeless within each county as compared to the state as a whole. However, the department may use the distribution formula in effect on the effective date of the amendments to this section at the 1985–86 Regular Session of the Legislature until the necessary information is available on poverty and homelessness in each county.

(b) Those guidelines shall grant priority for the distribution of funds to eligible recipients who meet any of the following criteria:

(1) To eligible recipients who make a commitment to provide

matching funds or in kind contributions.

(2) To eligible recipients who make a commitment to utilize homeless adults to operate and maintain the shelters and who will assist homeless persons in obtaining permanent shelter, job placement in the private sector, and other alternative sources of support.

(3) To eligible recipients who make a commitment to provide opportunities to homeless adults who have mechanical or construction skills and who are able to assist in the maintenance or rehabilitation of shelters.

SEC. 2.5. Section 50802 of the Health and Safety Code is amended to read:

50802. (a) The department shall, in ranking and rating applications for grants, give priority to those applications which are the most cost-effective, as determined by the department, in expanding and preserving the housing supply. The department shall adopt guidelines to govern the equitable distribution of funds in accordance with the intent and provisions of this chapter. The total amount of funds allocated to eligible recipients within each county shall be based upon a formula which takes into account the relative number of persons in poverty within each county as compared to the state as a whole. To the extent feasible when distributing funds, the department shall also take into account the relative number of homeless within each county as compared to the state as a whole. However, the department may use the distribution formula in effect on the effective date of the amendments to this section at the 1985–86 Regular Session of the Legislature until the necessary information is available on poverty and homelessness in each county.

(b) Those guidelines shall grant priority for the distribution of funds to eligible recipients who meet any of the following criteria:

(1) To eligible recipients who make a commitment to provide matching funds or in kind contributions.

(2) To eligible recipients who make a commitment to utilize homeless adults to operate and maintain the shelters and who will assist homeless persons in obtaining permanent shelter, job placement or other alternative sources of support, or both job placement and other alternative sources of support.

(3) To eligible recipients who make a commitment to provide opportunities to homeless adults who have mechanical or construction skills and who are able to assist in the maintenance or rehabilitation of shelters.

(4) To eligible recipients who form emergency resource groups for joint agency management.

(c) Those guidelines shall grant priority for the distribution of grant funds for operating expenses to eligible recipients who provide a job access telephone and a mailing address for homeless adults.

SEC. 3. Section 50804 of the Health and Safety Code is amended to read:

50804. The department shall award grants in a timely fashion

pursuant to Section 50802 and shall provide funding only to eligible recipients. An eligible recipient may, with the department's approval, contract with a recognized community organization, as determined by the department, to provide temporary or emergency shelter for the homeless. Any application for funds may be rejected, if, in the department's judgment, the grant would not result in an efficient provision of shelter to the homeless.

SEC. 4. Section 50805 of the Health and Safety Code is amended to read:

50805. (a) Grants awarded pursuant to this chapter may be used, with the approval of the department, to purchase, lease, renovate, repair, or equip buildings and sites for use as emergency shelters, to operate those emergency shelters, and to administer emergency shelter programs.

(b) Any eligible recipient awarded a grant pursuant to this chapter shall be required to use the grant funds to provide emergency shelter to needy persons, to practice nondiscrimination in the provision of the shelter, to use grant funds to supplement, not supplant, other state and local programs providing social services, health care, and housing assistance, and to meet any other qualifications the department finds necessary to carry out the intent of this chapter.

(c) The department shall ensure all of the following:

(1) That an eligible recipient does not utilize grant funds to cover more than 80 percent of the operating expenses of the recipient.

(2) That no more than 5 percent of a grant awarded to an eligible recipient pursuant to this chapter is expended for administrative expenses.

(3) That not more than 30 percent of the moneys in the Emergency Housing and Assistance Fund are expended during any fiscal year for grants to cover operating expenses.

(d) (1) The department shall establish, by regulation, the types of expenses which are included within the meaning of operating and administrative expenses for purposes of this chapter.

(2) At a minimum, those regulations shall include, but not be limited to, the following types of operating and administrative expenses:

(A) Operating expenses relating to supervising and counseling clients in obtaining permanent shelter, job placement, and other sources of support.

(B) Administrative expenses relating to telephone charges, office space rent, salary and benefits for administrative staff personnel, office supplies, photocopying and printing, and mail and accounting services.

SEC. 5. Section 2.5 of this bill incorporates amendments to Section 50802 of the Health and Safety Code proposed by both this bill and SB 549. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1986, but this bill becomes operative first, (2) each bill amends Section 50802 of the

Health and Safety Code, and (3) this bill is enacted after SB 549, in which case Section 50802 of the Health and Safety Code, as amended by Section 2 of this bill, shall remain operative only until the operative date of SB 549, at which time Section 2.5 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:

This act will make the disposition of funds to shelter the homeless more effective and equitable. In order that these additional benefits to the needy may be made available as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 1371

An act to add and repeal Section 49403.5 of the Education Code, relating to pupil health, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 49403.5 is added to the Education Code, to read:

49403.5. (a) The Legislature finds and declares that the school children of our state are faced with a growing threat of exposure to infectious diseases. The Legislature further finds that situations, verging on hysteria, have arisen among teachers, students, and communities because there does not currently exist a clear and effective state policy toward infectious diseases in our state school system. Therefore, the Legislature declares that in order to maintain and foster an effective learning environment and to prevent discrimination among our teachers, students, and their communities, it is necessary that the state develop a clear and effective policy regarding the issue of infectious diseases in our schools.

(b) The State Department of Education shall create a task force on the subject of infectious diseases in our public school system. There shall be 11 members appointed to the task force. The members of the task force shall consist of one representative from each of the following groups:

(1) Teachers.
(2) School administrators.
(3) Legal profession.
(4) Credentialed school nurses.
(5) Credentialed special education nurses.

(6) Physicians.
(7) Public health epidemiologist.
(8) Maintenance and custodial management.
(9) Parent groups.
(10) Pharmaceutical industry.
(11) Infectious disease section of the State Department of Health Services.

(c) The State Department of Education shall provide administrative and technical support for the purposes of the task force.

(d) The task force may meet monthly in Sacramento.

(e) The task force may convene for emergency sessions if the need arises, as determined by the chairperson.

(f) A chairperson, alternate, and secretary shall be appointed for the period of one year.

(g) The sum of thirty thousand dollars ($30,000) is hereby reappropriated from the amount appropriated by Item 6100-001-001 of the Budget Act of 1985 to the State Department of Education for the 1985–86 fiscal year to provide for transportation costs, administrative and technical support from the department, and the cost of the report to the Legislature required by subdivision (h).

(h) On or before January 1, 1987, the task force shall submit a report to the Legislature, the Governor, and the Superintendent of Public Instruction. The report shall be available for public examination. The report shall identify problems, assess the current situation, and make recommendations on all of the following:

(1) Scope of the need and methods for educating the public regarding infectious diseases.

(2) Scope of the need and methods for infectious disease prevention programs in the schools, including, but not limited to, education and immunization.

(3) Financial impact of infectious diseases on school programs, including the cost of absenteeism during epidemics or incidents.

(4) The psychosocial impact of infectious diseases on school staff and students resulting from discrimination, stigmatizing, and fear.

(5) The need for modification and improvement of the physical and structural design of schools with respect to infectious disease.

(i) 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 formulate a policy to curtail as soon as possible the rapid increase in infectious diseases in school age children, it is necessary for this act to take effect immediately.

CHAPTER 1372

An act to amend Section 1534 of, and to add Sections 1546, 1548, 1569.33, 1569.48, and 1569.49 to, the Health and Safety Code, relating to community care facilities.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 1534 of the Health and Safety Code is amended to read:

1534. Every licensed community care facility shall be periodically inspected and evaluated for quality of care by a representative or representatives designated by the director. Evaluations shall be conducted at least once per year and as often as necessary to ensure the quality of care being provided.

The department shall notify the community care facility in writing of all deficiencies in its compliance with the provisions of this chapter and the rules and regulations adopted pursuant to this chapter, and shall set a reasonable length of time for compliance by the facility.

Reports on the results of each inspection, evaluation, or consultation shall be kept on file in the department, and all inspection reports, consultation reports, lists of deficiencies, and plans of correction shall be open to public inspection in the county in which the facility is located.

SEC. 2. Section 1546 is added to the Health and Safety Code, to read:

1546. The department may require 50 percent of each penalty assessed pursuant to Section 1548 to be transmitted to the department for use by the Community Care Licensing Division of the state department to establish an emergency resident relocation fund to be utilized for the relocation and care of residents when a facility's license is revoked or temporarily suspended, when appropriated by the Legislature. The money in the fund shall cover costs, including but not limited to, transportation expenses, expenses incurred in notifying family members, and any other costs directly associated with providing continuous care to the residents. The department shall seek the advice of providers in developing a state plan for emergency resident relocation.

SEC. 3. Section 1548 is added to the Health and Safety Code, to read:

1548. (a) In addition to suspension or revocation of a license issued under this chapter, the department may levy a civil penalty in addition to the penalties of suspension or revocation.

(b) The amount of the civil penalty shall not be less than twenty-five dollars ($25) or more than fifty dollars ($50) per day for each violation of this chapter except where the nature or seriousness

of the violation or the frequency of the violation warrants a higher penalty or an immediate civil penalty assessment, or both, as determined by the department. In no event, shall a civil penalty assessment exceed one hundred fifty dollars ($150) per day.

(c) Notwithstanding Section 1534, any facility that is cited for repeating the same violation of this chapter within 12 months of the first violation is subject to an immediate civil penalty of one hundred fifty dollars ($150) and fifty dollars ($50) for each day the violation continues until the deficiency is corrected.

(d) Any facility that is assessed a civil penalty pursuant to subdivision (c) which repeats the same violation of this chapter within 12 months of the violation subject to subdivision (c) is subject to an immediate civil penalty of one hundred fifty dollars ($150) for each day the violation continues until the deficiency is corrected.

The department shall adopt regulations implementing this section.

SEC. 4. Section 1569.33 is added to the Health and Safety Code, to read:

1569.33. Every licensed residential care facility for the elderly shall be periodically inspected and evaluated for quality of care by a representative or representatives designated by the director. Evaluations shall be conducted at least once per year and as often as necessary to ensure the quality of care being provided.

The department shall notify the residential care facility for the elderly in writing of all deficiencies in its compliance with the provisions of this chapter and the rules and regulations adopted pursuant to this chapter, and shall set a reasonable length of time for compliance by the facility.

Reports on the results of each inspection, evaluation, or consultation shall be kept on file in the department, and all inspection reports, consultation reports, lists of deficiences, and plans of correction shall be open to public inspection in the county in which the facility is located.

SEC. 5. Section 1569.48 is added to the Health and Safety Code, to read:

1569.48. The department may require 50 percent of each penalty assessed pursuant to Section 1569.49 to be transmitted to the department for use by the Community Care Licensing Division of the department to establish an emergency resident relocation fund to be utilized for the relocation and care of residents when a facility's license is revoked or temporarily suspended, when appropriated by the Legislature. The money in the fund shall cover costs, including, but not limited to, transportation expenses, expenses incurred in notifying family members, and any other costs directly associated with providing continuous care to the residents. The department shall seek the advice of providers in developing a state plan for emergency resident relocation.

SEC. 6. Section 1569.49 is added to the Health and Safety Code, to read:

1569.49. (a) In addition to suspension or revocation of a license

issued under this chapter, the department may levy a civil penalty in addition to the penalties of suspension or revocation.

(b) The amount of the civil penalty shall not be less than twenty-five dollars ($25) or more than fifty dollars ($50) per day for each violation of this chapter except where the nature or seriousness of the violation or the frequency of the violation warrants a higher penalty or an immediate civil penalty assessment, or both, as determined by the department. In no event, shall a civil penalty assessment exceed one hundred fifty dollars ($150) per day.

(c) Notwithstanding Section 1569.33, any residential care facility for the elderly that is cited for repeating the same violation of this chapter within 12 months of the first violation is subject to an immediate civil penalty of one hundred fifty dollars ($150) and fifty dollars ($50) for each day the violation continues until the deficiency is corrected.

(d) Any residential care facility for the elderly that is assessed a civil penalty pursuant to subdivision (c) which repeats the same violation of this chapter within 12 months of the violation subject to subdivision (c) is subject to an immediate civil penalty of one hundred fifty dollars ($150) for each day the violation continues until the deficiency is corrected.

The department shall adopt regulations implementing this section.

SEC. 7. Sections 4, 5, and 6 of this act shall only become operative if Senate Bill No. 185 of the 1985–86 Regular Session is chaptered and becomes effective on or before January 1, 1986.

CHAPTER 1373

An act to amend Section 825 of the Government Code, relating to public liability.

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

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

SECTION 1. Section 825 of the Government Code is amended to read:

825. (a) If an employee or former employee of a public entity requests the public entity to defend him against any claim or action against him for an injury arising out of an act or omission occurring within the scope of his employment as an employee of the public entity and such request is made in writing not less than 10 days before the day of trial, and the employee or former employee reasonably cooperates in good faith in the defense of the claim or action, the public entity shall pay any judgment based thereon or any compromise or settlement of the claim or action to which the public entity has agreed.

If the public entity conducts the defense of an employee or former employee against any claim or action with his reasonable good-faith cooperation, the public entity shall pay any judgment based thereon or any compromise or settlement of the claim or action to which the public entity has agreed; but, where the public entity conducted such defense pursuant to an agreement with the employee or former employee reserving the rights of the public entity not to pay the judgment, compromise or settlement until it is established that the injury arose out of an act or omission occurring within the scope of his employment as an employee of the public entity, the public entity is required to pay the judgment, compromise or settlement only if it is established that the injury arose out of an act or omission occurring in the scope of his employment as an employee of the public entity.

Nothing in this section authorizes a public entity to pay that part of a claim or judgment that is for punitive or exemplary damages.

(b) Notwithstanding subdivision (a) or any other provision of law, a public entity, other than the state as defined in Section 900.6, is authorized to pay that part of a judgment that is for punitive or exemplary damages if the governing body of that public entity, acting in its sole discretion, finds all of the following:

(1) The judgment is based on an act or omission of an employee or former employee acting within the course and scope of his or her employment as an employee of the public entity.

(2) At the time of the act giving rise to the liability, the employee or former employee acted, or failed to act, in good faith, without actual malice and in the apparent best interests of the public entity.

(3) Payment of the claim or judgment would be in the best interests of the public entity.

The discovery of the assets of a public entity and the introduction of evidence of the assets of a public entity shall not be permitted in an action in which it is alleged that a public employee is liable for punitive or exemplary damages.

The possibility that a public entity may pay that part of a judgment that is for punitive damages shall not be disclosed in any trial in which it is alleged that a public employee is liable for punitive or exemplary damages, and that disclosure shall be grounds for a mistrial.

(c) Except as provided in subdivision (d), if the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 10 (commencing with Section 3500) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(d) The subject of payment of punitive damages pursuant to this section or any other provision of law shall not be a subject of meet

and confer under the provisions of Chapter 10 (commencing with Section 3500) of Division 4 of Title 1, or pursuant to any other law or authority.

(e) Nothing in this section shall affect the provisions of Section 818 prohibiting the award of punitive damages against a public entity. This section shall not be construed as a waiver of a public entity's immunity from liability for punitive damages under Section 1981, 1983, or 1985 of Title 42 of the United States Code.

CHAPTER 1374

An act to amend Section 69948 of, and to add Sections 70045.10 and 74839 to, the Government Code, relating to courts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 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 ninety dollars ($90) per 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, except as may otherwise be provided in Section 74839, the fee for reporting testimony and proceedings in

contested cases is ninety dollars ($90) per 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 Solano County, the fee for reporting testimony and proceedings in contested cases is ninety dollars ($90) per day, or fifty-five dollars ($55) per half day or fractional part thereof; provided that the board of supervisors may, by ordinance, prescribe a higher rate of compensation for superior court reporters.

SEC. 2. Section 70045.10 is added to the Government Code, to read:

70045.10. Notwithstanding any other provision of law, the

provisions of this section shall apply to the official court reporters in Tehama County.

(a) The regular full-time official court reporters shall perform the following duties:

(1) Report all criminal proceedings in superior court.

(2) Report all juvenile proceedings other than those heard by the juvenile court referee or traffic hearing officer.

(3) Report all civil jury trials in superior court, unless the court determines it is not required.

(4) Report any other proceeding in the superior court at the request of the judge of the superior court.

(5) Report any superior court proceeding when a party requests a court reporter in accordance with the rules of court.

(6) Report all criminal investigations of the grand jury, when requested by the foreman or the district attorney.

(7) Report the preliminary examination of those accused of crime before magistrates or municipal court judges within Tehama County, or both.

(8) Report coroner's inquests, when requested by the coroner.

(9) Report hearings of the Board of Equalization of the County of Tehama, as requested by that board.

(10) Other reporting or related services, as directed by the judges of the superior court.

(11) When not occupied with the above duties, and upon request of the board of supervisors and approval of the presiding judge of the superior court, they shall report matters before the board of supervisors.

(12) Such other duties as are required to insure the provision of court reporter services.

(b) Each regular full-time court reporter shall be paid a monthly salary of two thousand two hundred sixty-seven dollars ($2,267), unless the Board of Supervisors of Tehama County, by ordinance, provides for compensation in excess of that amount, in which event the compensation set by ordinance shall apply. The salary is for compensation for reporting services set forth under subdivision (a). For all transcriptions incident to reporting services, each reporter shall receive the fees provided for in Article 9 (commencing with Section 69941).

The regular, full-time official court reporters shall be entitled the same privileges with respect to retirement, vacation (upon approval of judge to whom assigned), sick leave, and group insurance, which either is now, or hereafter may be, provided by ordinance to other comparable employees of the County of Tehama.

For retirement credit purposes, compensation earnable shall be deemed to be the annual total of all salary and transcription fees paid by the County of Tehama to each regular official reporter up to a maximum of thirty-five thousand dollars ($35,000).

(c) When the regular full-time official court reporters are occupied in the performance of their duties and services pursuant to

the provisions of subdivision (a), the judge or judges of the superior court may appoint as many additional official court reporters, who shall be known as official reporters pro tempore, as the business of the court may be carried on without delay. Notwithstanding other provisions of this section, when an assignment of a pro tempore reporter is made to proceedings in the superior court, the assignment shall be deemed to run to the completion of the proceeding.

Reporters pro tempore shall be paid in accordance with the rate of compensation as set by the board of supervisors. For all transcriptions incident to reporting services, each reporter shall receive the fees provided for in Article 9 (commencing with Section 69941). The per diem, traveling and other expenses, and the fees chargeable to the county under the terms of these provisions shall be a proper county charge.

(d) During the hours during which the court is open, as prescribed by the Tehama County Superior Court for the transaction of judicial business, official court reporters shall devote full time to the performance of the duties required of them by law and shall not engage, or solicit to engage, in any other employment in their professional capacity unless otherwise excused by a judge of the superior court.

If the official court reporter or a pro tempore reporter serves past 5:30 p.m., he or she shall receive an additional fee equal to one-half the per diem rate established by the board of supervisors. If the official court reporter or a pro tempore reporter serves past 8:30 p.m., he or she shall receive a second additional fee equal to one-half the per diem rate. Accumulation of hours in a given day shall be without regard as to the number of courts in which the reporter provides reporting service.

In order that the salary provided for regular full-time official court reporters shall remain equitable and competitive, the salary herein provided for shall be adjusted and increased by the same salary adjustment percentage for the classification entitled the superior court clerk enacted on or before July 1, 1985, by the County of Tehama.

SEC. 3. Section 74839 is added to the Government Code, to read:

74839. The fee for reporting testimony and proceedings in contested cases in the Sutter County Municipal Court is ninety dollars ($90) per day, or any fractional part thereof.

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 ensure adequate court reporting services in Yuba, Sutter, Tehama, and Solano Counties, it is necessary that this bill take effect immediately.

CHAPTER 1375

An act to amend Section 1170.1 of, and add Section 12022.9 to, the Penal Code, relating to sentences.

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

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

SECTION 1. Section 12022.9 is added to the Penal Code, to read:

12022.9. Any person who, during the commission or attempted commission of a felony, who knows or reasonably should know that the victim is pregnant, with intent to inflict injury, and without the consent of the woman, personally inflicts injury upon a pregnant woman which results in the termination of the pregnancy 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 five years in the state prison. The additional term provided in this section shall not be imposed unless the fact of such injury is charged in the accusatory pleading and admitted or found to be true by the trier of fact.

Nothing in this section shall be construed as affecting the applicability of subdivision (a) of Section 187 of the Penal Code.

SEC. 2. 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, 12022.5, 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, 12022.5, 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, 12022.5, 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 such convictions which the person is required to serve consecutively shall commence from the time the person would otherwise have been released from prison. If the new offenses are consecutive with each other, the principal and subordinate terms shall be calculated as provided in subdivision (a), except that the total of subordinate terms may exceed five years. The provisions of this subdivision shall be applicable in cases of convictions of more than one offense in different proceedings, and convictions of more than one offense in the same or different proceedings.

(d) When the court imposes a prison sentence for a felony pursuant to Section 1170 the court shall also impose the additional terms provided in Sections 667.5, 12022, 12022.5, 12022.6, 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, 12022.5, 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 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, 12022.5, 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, 12022.5, 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, 12022.5, 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. 2.5. 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 forall 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. 3. Section 2.5 of this bill incorporates amendments to Section 1170.1 of the Penal Code proposed by both this bill and SB 428. 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 SB 428, in which case Section 2 of this bill shall not become operative.

CHAPTER 1376

An act to add Article 13 (commencing with Section 49580) to Chapter 9 of Part 27 of the Education Code, relating to schools, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Article 13 (commencing with Section 49580) is added to Chapter 9 of Part 27 of the Education Code, to read:

Article 13. Early Diagnosis of Learning Disabilities

49580. The State Department of Education shall develop a testing program to be utilized at the kindergarten grade level to determine which pupils have a potential for developing learning disability problems. The testing procedure shall include an overall screening test for learning disabilities and testing for dyslexia. To the extent feasible, the department shall use existing tests and screening instruments in developing the early diagnosis of the learning disabilities testing program. In developing the program, the department shall consult with experts in the areas of learning and reading difficulties, including, but not limited to, neurologists, psychologists, persons working in these areas in postsecondary educational institutions, teachers, school nurses, education consultants, school psychologists, and other persons with appropriate knowledge and experience in the detection and treatment of learning problems and reading difficulties in early grades.

49581. The State Department of Education shall develop and implement a pilot project to determine the effectiveness and feasibility of implementing the early diagnosis of learning disabilities testing program developed pursuant to Section 49580. The pilot project shall administer the early diagnosis testing program to kindergarten aged pupils in order to identify pupils with the potential to develop learning disability problems. Pupils who are identified as having potential learning disability problems shall be referred to existing programs and services which are available to provide assistance.

49582. On or before January 1, 1986, the State Department of Education shall prescribe guidelines for the early diagnosis of the learning disabilities testing program and pilot project. The guidelines shall include, but need not be limited to, all of the following:

(a) A definition of "pupils with the potential to develop learning disability problems," as used in this article.

(b) The methods and criteria for selecting one or more sites for the establishment of the pilot project.

(c) The number of sites to be selected for purposes of establishing the pilot project.

(d) Criteria for judging the results and effectiveness of the early diagnosis testing program, as well as criteria for determining the feasibility for implementing the program at the conclusion of the pilot project.

49583. On or before January 1, 1989, the State Department of Education shall submit a report to both educational policy committees of the Legislature regarding the results of the early

diagnosis of the learning disabilities pilot project. The report shall include, but need not be limited to, an assessment of the degree to which the early diagnosis of learning disabilities in pupils participating in the pilot program resulted in a reduction of the need for later remedial education for those pupils, and the projected cost effectiveness of this early diagnosis.

SEC. 2. The sum of one hundred fifty thousand dollars ($150,000) is hereby appropriated from the General Fund to the State Department of Education for allocation in accordance with the following schedule:

(a) For purposes of developing a testing program for the early diagnosis of learning disabilities pursuant to Article 13 (commencing with Section 49580) of Chapter 9 of Part 27 of the Education Code in the 1985–86 fiscal year	$ 50,000
(b) For purposes of validating the testing program described in subdivision (a) in the 1986–87 and 1987–88 fiscal years, with fifty thousand dollars ($50,000) to be allocated to the department in each fiscal year	$100,000

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 require the State Department of Education to develop a testing program for the early diagnosis of learning disabilities at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1377

An act to amend Sections 11353, 11354, and 11550 of the Health and Safety Code, and to amend Section 1203.073 of the Penal Code, relating to controlled substances.

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

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

SECTION 1. Section 11353 of the Health and Safety Code is amended to read:

11353. Every person 18 years of age or over who in any voluntary manner solicits, induces, encourages, or intimidates any minor with the intent that the minor shall violate any provision of this chapter or Section 11550 with respect to (1) a controlled substance which is

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) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, who hires, employs, or uses a minor to unlawfully transport, carry, sell, give away, prepare for sale, or peddle any such controlled substance, or who unlawfully sells, furnishes, administers, gives, or offers to sell, furnish, administer, or give, any such controlled substance to a minor shall be punished by imprisonment in the state prison for a period of three, four, or five years.

SEC. 2. Section 11354 of the Health and Safety Code is amended to read:

11354. (a) Every person under the age of 18 years who in any voluntary manner solicits, induces, encourages, or intimidates any minor with the intent that the minor shall violate any provision of this chapter or Section 11550, who hires, employs, or uses a minor to unlawfully transport, carry, sell, give away, prepare for sale, or peddle (1) any controlled substance 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) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, or who unlawfully sells, furnishes, administers, gives, or offers to sell, furnish, administer, or give, any such controlled substance to a minor shall be punished by imprisonment in the state prison.

(b) This section is not intended to affect the jurisdiction of the juvenile court.

SEC. 3. 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, specified in subdivision (b) or (c) of Section 11055, or specified in paragraph (1) or (2) of subdivision (d) 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. 4. 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, or Section 11352 of the Health and Safety Code by selling, 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, or Section 11379 of the Health and Safety Code by selling, 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.

(4) Any person who is convicted of violating Section 11353 or 11380 of the Health and Safety Code by using, soliciting, inducing, encouraging, or intimidating a minor to manufacture, compound, or sell heroin, cocaine, or methamphetamine.

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. 5. 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, or Section 11352 of the Health and Safety Code by selling, 28.5 grams or more of cocaine, or a substance containing 28.5 grams or more of cocaine, or 57 grams or more of a substance containing cocaine.

(2) Any person who is convicted of violating Section 11378 of the Health and Safety Code by possessing for sale, or Section 11379 of the Health and Safety Code by selling, 28.5 grams or more of methamphetamine, or a substance containing 28.5 grams or more of methamphetamine, or 57 grams or more of a substance containing 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.

(4) Any person who is convicted of violating Section 11353 or 11380 of the Health and Safety Code by using, soliciting, inducing, encouraging, or intimidating a minor to manufacture, compound, or sell heroin, cocaine, or methamphetamine.

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. 6. Section 5 of this bill incorporates amendments to Section 1203.073 of the Penal Code proposed by both this bill and AB 1699. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 1203.073 of the Penal Code, and (3) this bill is enacted after AB 1699, in which case Section 4 of this bill shall not become operative.

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 1378

An act to amend Sections 33200 and 33213 of the Public Resources Code, relating to the Santa Monica Mountains Conservancy.

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

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

SECTION 1. Section 33200 of the Public Resources Code is amended to read:

33200. (a) The Santa Monica Mountains Conservancy is hereby established. The conservancy is composed of seven voting members and two ex officio members. The voting members are as follows:

(1) The Director of the National Park Service or an employee designated by the director.

(2) A member representing the City of Los Angeles, appointed by the mayor with the approval of the city council.

(3) Three public members who shall be residents of either the County of Los Angeles or the County of Ventura, one of whom shall be appointed by the Governor, one of whom shall be appointed by the Senate Committee on Rules, and one of whom shall be appointed by the Speaker of the Assembly. At least one of the public members shall reside within the San Fernando Valley statistical area, as defined in Section 11093 of the Government Code.

(4) An elected official who is a representative nominated by the city councils of those cities which have at least 75 percent of their areas within the zone who shall be appointed by the Board of Supervisors of the County of Los Angeles or a member appointed by the Board of Supervisors of the County of Los Angeles, or that member's designee.

(5) An elected official who is either a member of the City Council of the City of Thousand Oaks or a member of the Board of Supervisors of the County of Ventura and who shall be appointed by the Board of Supervisors of the County of Ventura, or the elected official's designee.

The seat of a public member shall be deemed vacant if the member changes his or her residence to a county other than Los Angeles or Ventura County.

The California Coastal Commission and the State Coastal Conservancy shall each appoint an ex officio member who shall be either a member or employee of their respective agency. The ex officio member appointed by the California Coastal Commission and the State Coastal Conservancy shall be nonvoting members, except that the ex officio member appointed by the State Coastal Conservancy may vote on any matter relating to a project undertaken within the coastal zone portion of the zone.

On the 10th working day after certification pursuant to Chapter 6

(commencing with Section 30500) of Division 20 of any local coastal program, or any portion thereof, for any portion of the zone, the ex officio member appointed by the California Coastal Commission may vote on any matter relating to a project undertaken within the coastal zone portion of the zone and the ex officio member appointed by the State Coastal Conservancy may not vote on the matter.

(b) The chairperson and vice chairperson of the conservancy shall be selected by the voting members of the conservancy for a one-year term. A majority of the total authorized and appointed voting membership of the conservancy constitutes a quorum for the transaction of any business under this division.

(c) The following members of the conservancy shall be compensated for attendance at regular meetings of the conservancy at the rate of one hundred dollars ($100) per day:

(1) The public members.

(2) The member appointed by the Board of Supervisors of the County of Los Angeles or that member's designee, unless the member or designee is also a member of the board of supervisors, in which case no compensation shall be paid.

(3) The member appointed by the Board of Supervisors of the County of Ventura or that member's designee, unless the member or designee is also a member of a board of supervisors, in which case no compensation shall be paid.

(4) The members appointed by the State Coastal Conservancy and the California Coastal Commission if these members are also public members of their respective agencies.

(5) The appointed member representing the City of Los Angeles.

All members of the conservancy shall be reimbursed for actual and necessary expenses, including travel expenses, incurred in the performance of their duties.

SEC. 2. Section 33213 of the Public Resources Code is amended to read:

33213. (a) The Santa Monica Mountains Conservancy Advisory Committee is hereby created. The advisory committee consists of 13 members, as follows:

(1) Four representatives of local governments from jurisdictions including the Santa Monica Mountains, one of whom shall be appointed by the Mayor of the City of Los Angeles, one of whom shall be appointed by the Board of Supervisors of the County of Los Angeles, one of whom shall be appointed by the City Council of the City of Thousand Oaks, and one of whom shall be appointed by the Board of Supervisors of the County of Ventura.

(2) Six public members, two of whom shall be appointed by the Governor, two of whom shall be appointed by the Senate Committee on Rules, and two of whom shall be appointed by the Speaker of the Assembly.

(3) The Chairperson of the Santa Monica Mountains National Recreation Area Advisory Commission selected by the National Recreation Area Advisory Commission.

(4) One representative of the Rancho Simi Recreation and Park District, to be appointed by the district board of directors.

(5) One representative of the Conejo Recreation and Park District, to be appointed by the district board of directors.

(b) The advisory committee shall select from among its members a chairperson and a vice chairperson.

(c) The members of the advisory committee shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties.

(d) The advisory committee has the following duties:

(1) Propose and review projects for conservancy action and report to the conservancy regarding the conformity of the projects with the plan.

(2) Review proposed amendments to the plan.

(3) Provide opportunities for public participation.

(e) A majority of the total authorized membership of the advisory committee constitutes a quorum for the transaction of any business of the advisory committee.

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 1379

An act to amend Section 69512 of, to add Sections 69601.1, 69763.3 and 69763.5 to, and to repeal Section 69601.5 of, the Education Code, relating to student financial aid, and declaring the urgency thereof, to take effect immediately.

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

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

SECTION 1. Section 69512 of the Education Code is amended to read:

69512. The members of the commission shall annually select a chairperson from the members of the commission.

SEC. 2. Section 69601.1 is added to the Education Code, to read:

69601.1. No applicant for participation in the California Teacher Shortage Loan Assumption Program shall be eligible for participation unless he or she satisfies all of the following requirements:

(a) The applicant is enrolled and has completed at least 60

semester units, or the equivalent thereof, in a postsecondary educational program that will lead to a credential in mathematics, science, bilingual education, or another critical shortage field designated by the Superintendent of Public Instruction, is participating in a teacher trainee program, or holds a baccalaureate degree and agrees to complete additional training or coursework in order to be fully credentialed to teach in a critical shortage field designated by the Superintendent of Public Instruction.

(b) In order to meet costs associated with obtaining a baccalaureate degree, or a California teaching credential, in any of the areas specified in subdivision (a), the applicant has received a loan under one of the following programs:

(1) The federal Guaranteed Student Loan Program (GSLP).

(2) The National Direct Student Loan Program (NDSLP). The federal regulations pertaining to cancellation of a direct loan shall supersede the provisions of this article where applicable.

(3) Any other loan program approved by the Student Aid Commission.

(c) The applicant has agreed to teach in a California public school for at least three consecutive academic years after obtaining a teaching credential.

(d) This section shall apply only to persons applying for participation in the California Teacher Shortage Loan Assumption Program on and after the effective date of this section and shall not apply to persons who applied prior to the effective date of this section, whose requirements are set forth in Section 69601.

SEC. 3. Section 69601.5 of the Education Code is repealed.

SEC. 4. Section 69763.3 is added to the Education Code, to read:

69763.3. Each agency or organization that guarantees student loans for California residents or students attending educational institutions in California shall do all of the following:

(a) Require participating lenders and educational institutions to meet administrative requirements relating to loan defaults and due diligence in loan collections that are at least as rigorous as those imposed by the Student Aid Commission.

(b) Upon request, annually provide the California Postsecondary Education Commission with summary data tapes of individual records, including, but not limited to, all information contained on the applications of California applicants and borrowers for that academic year and for all previous academic years. The information shall be provided in a format that meets all of the following conditions:

(1) Makes it possible to distinguish among borrowers in each of the following groups:

(A) Borrowers repaying their loans.

(B) Borrowers with deferred status.

(C) Borrowers currently enrolled in an educational institution.

(D) Borrowers in default.

(2) Permits analysis of each of the groups identified in paragraph

(1) by segment, individual institution, and individual lender.

(c) Annually report to the California Postsecondary Education Commission loan portfolio information regarding individual lenders in California, including, but not limited to, all of the following:

(1) Volume of loans originated by each segment and each participating educational institution.

(2) Volume of loans currently outstanding within each segment and educational institution.

(3) Default rate of loans originated by each segment and each participating educational institution.

(4) Default rate of loans currently outstanding within each segment and educational institution.

SEC. 5. Section 69763.5 is added to the Education Code, to read:

69763.5. The California Postsecondary Education Commission shall conduct a study of the guarantee function of the State Guaranteed Loan Program, which shall include, but not be limited to, all of the following:

(a) An assessment of the advantages and disadvantages of providing the guarantee function through a state agency, public nonprofit organization, private nonprofit organization, and other alternative entities.

(b) The implications for students, lenders, educational institutions, and the state of having multiple guarantors in the state.

(c) Consideration of all of the following:

(1) Characteristics of the different types of borrowers served by different types of guarantors.

(2) Default rates of different types of guarantors.

(3) Default rates in states with multiple guarantors.

(4) Availability of loans in states with multiple guarantors.

The commission shall submit the study and its recommendations to the Legislature by December 1986.

SEC. 6. Section 69601.1 of the Education Code, as added by Section 2 of this act, shall not take effect if Senate Bill 1208 of the 1985–86 Regular Session is enacted.

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 permit this act to become operative by the beginning of the 1985–86 school year, it is necessary that this act take effect immediately.

CHAPTER 1380

An act to amend Section 785 of, and to add Section 785.5 to, the Public Utilities Code, relating to public utilities.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 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 to accomplish both of the following:

(a) To declare the policy of the State of California that customers of public utility gas corporations be assured a gas supply at the least cost consistent with security of supply.

(b) To establish an overall policy framework for the gas purchasing and procurement practices of gas corporations that is responsive to market conditions and assures their customers that the delivered cost of gas is reasonable, just, and responsive to competition.

SEC. 2. Section 785 of the Public Utilities Code is amended to read:

785. (a) To the extent consistent with federal law and regulation and contractual obligations regarding other available gas, the commission shall, in consultation with the Division of Oil and Gas of the Department of Conservation and with the State Energy Resources Conservation and Development Commission, encourage, as a first priority, the increased production of gas in this state, including gas produced from that area of the Pacific Ocean along the coast of California commonly known as the outer continental shelf, and shall require, after a hearing, every gas corporation to purchase that gas which is compatible with the corporation's gas plant and which is produced in this state having an actual delivered cost, measured in equivalent heat units, equal to or less than other available gas, unless this requirement will result in higher overall costs of gas or other consequences adverse to the interests of gas customers.

(b) The commission shall annually report to the Legislature on its implementation of this section.

SEC. 3. Section 785.5 is added to the Public Utilities Code, to read:

785.5. (a) The commission shall require every gas corporation to adopt and pursue purchasing and procurement practices which assure its customers the lowest rates consistent with security of supply and with Section 785.

(b) Pursuant to subdivision (a), the commission may establish and periodically revise for each gas corporation guidelines for priorities among suppliers and sources of supply of gas to gas corporations, taking into consideration the requirements of Section 785. The

establishment of these guidelines does not relieve a gas corporation of any requirement to make reasonable and prudent purchases of gas or diminish the authority of the commission to review the reasonableness of any purchase or procurement decision of the corporation.

CHAPTER 1381

An act to amend Section 1203.073 of the Penal Code, relating to probation.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. 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, or 57 grams or more of a substance containing 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, or 57 grams or more of a substance containing 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. 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, or Section 11352 of the Health and Safety Code by selling, 28.5 grams or more of cocaine, or a substance containing 28.5 grams or more of cocaine, or 57 grams or more of a substance containing cocaine.

(2) Any person who is convicted of violating Section 11378 of the Health and Safety Code by possessing for sale, or Section 11379 of the Health and Safety Code by selling, 28.5 grams or more of methamphetamine, or a substance containing 28.5 grams or more of methamphetamine, or 57 grams or more of a substance containing 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.

(4) Any person who is convicted of violating Section 11353 or 11380 of the Health and Safety Code by using, soliciting, inducing, encouraging, or intimidating a minor to manufacture, compound, or sell heroin, cocaine, or methamphetamine.

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. Section 2 of this bill incorporates amendments to Section 1203.073 of the Penal Code proposed by both this bill and AB 1120. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 1203.073 of the Penal Code, and (3) this bill is enacted after AB 1120, in which case Section 1 of this bill shall not become operative.

CHAPTER 1382

An act to amend Sections 155, 159.5, 6509, 6511, 7307, 7314, 8529, 9532, 9533.5, 9922, 19004, and 19032 of, to add Sections 7314.5, 7314.6, and 7392.1 to, and to repeal Section 160.5 of, the Business and Professions Code, relating to business and professions.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 155 of the Business and Professions Code is amended to read:

155. (a) In accordance with Section 159.5, the director may employ such investigators, inspectors, and deputies as are necessary properly to investigate and prosecute all violations of any law, the enforcement of which is charged to the department or to any board, agency, or commission in the department.

(b) It is the intent of the Legislature that inspectors used by boards, bureaus, or commissions in the department shall not be required to be employees of the Division of Investigation, but may either be employees of, or under contract to, the boards, bureaus, or commissions. Contracts for services shall be consistent with Article 4.5 (commencing with Section 19130) of Chapter 6 of Part 2 of Division 5 of Title 2 of the Government Code. All civil service employees currently employed as inspectors whose functions are transferred as a result of this section shall retain their positions, status, and rights in accordance with Section 19994.10 of the Government Code and the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code).

(c) Nothing in this section limits the authority of, or prohibits, investigators in the Division of Investigation in the conduct of inspections or investigations of any licensee, or in the conduct of investigations of any officer or employee of a board or the department at the specific request of the director or his or her designee.

SEC. 2. Section 159.5 of the Business and Professions Code is amended to read:

159.5. There is in the department the Division of Investigation. The division is in charge of a person with the title of chief of the division.

Except as provided in Section 16 of Chapter 1394 of the Statutes of 1970, all positions for the personnel necessary to provide investigative services, as specified in Section 160 of this code and in subdivision (b) of Section 830.3 of the Penal Code, to the agencies in the department shall be in the division and the personnel shall be appointed by the director. However, if, pursuant to the Governor's

Reorganization Plan No. 2 of the 1970 Regular Session, any agency has any investigative, inspectional, or auditing positions of its own, the agency shall retain those positions until the director determines, after consultation with, and consideration of, the views of the particular agency concerned, that the positions should be transferred to the division in the interests of efficient, economical, and effective service to the public, at which time they shall be so transferred.

SEC. 3. Section 160.5 of the Business and Professions Code is repealed.

SEC. 4. Section 6509 of the Business and Professions Code is amended to read:

6509. For the purpose of enforcing this chapter, the board's executive officer or the board's agents or assistants may enter into and inspect any barbershop or college at any time during business hours or at any time when the practice of barbering or instruction in that practice is being carried on.

Any member of the board may enter and visit any barbershop or college at any time during business hours or at any time when the practice of barbering or instruction in that practice is being carried on. This visitation by a board member shall not be used as a basis for any licensing disciplinary action by the board.

SEC. 5. Section 6511 of the Business and Professions Code is amended to read:

6511. The board shall have authority to employ such examiners-field representatives, clerks, and other assistants as it may deem necessary to carry out this chapter. They shall work under the immediate control and supervision of the board.

SEC. 6. Section 7307 of the Business and Professions Code is amended to read:

7307. With the approval of the director, the board may:

(a) Prescribe the duties of its officers and employees.

(b) Enter into an agreement with any board, bureau, or commission within the department which employs sanitary inspectors to have those inspectors conduct sanitary inspections of cosmetological establishments and schools.

(c) Establish a principal office and branch offices at such places in the state as may be deemed necessary.

All records and files of the board shall be kept at the principal office.

The board shall adopt a seal.

SEC. 7. Section 7314 of the Business Professions Code is amended to read:

7314. The board shall have the authority to employ examiners, inspectors, deputies, clerks, and other assistants as it may deem necessary to carry out this chapter and to fix their compensation, which compensation and all reasonable expenses incurred by the board, shall not be paid from the general revenue funds of the state.

An examiner in any branch of cosmetology, except electrology, shall hold a current, valid license as a cosmetology instructor at the

time of his or her appointment and an examiner in electrology shall hold a current valid license as an electrology instructor at the time of his or her appointment.

SEC. 8. Section 7314.5 is added to the Business and Professions Code, to read:

7314.5. To assure compliance with the laws and regulations governing the operation of schools and establishments, the board's authorized representatives shall, subject to Section 7392.1, have access to, and may inspect the premises of, all cosmetology establishments and schools of cosmetology and electrology, or places in which the acts of cosmetology or any of its branches are being performed.

SEC. 9. Section 7314.6 is added to the Business and Professions Code, to read:

7314.6. The Governor may appoint an advisory committee on inspections and disciplinary review which shall consist of six members. Two of the committee members shall be licensees of the board who are not engaged in the management of a school of cosmetology or electrology. Two of the committee members shall be persons who participate actively in the management of a school of cosmetology or electrology as the owners of a school of cosmetology or electrology, or as members of a partnership or officers of a corporation which owns a school of cosmetology or electrology. One of the committee members shall be a public member and one of the committee members shall be an ex officio member of the board. The members of the advisory committee shall be appointed for a term of one year and may not serve for more than two consecutive terms. Each member shall receive the per diem and expenses provided for in Section 103.

The purpose of the advisory committee on inspections and disciplinary review shall conform to the following standards:

(1) The advisory committee, upon the request of the board, shall review and make suggestions and recommendations to the board regarding the board's inspection activities and program.

(2) The advisory committee shall review upon request of the board appeals stemming from inspection activities of the board which result in misdemeanor violations. The committee shall make formal recommendations based on findings of fact which may allow the board to affirm, reduce, or vacate any disciplinary penalty imposed as a result of those inspection activities.

SEC. 10. Section 7392.1 is added to the Business and Professions Code, to read:

7392.1. Schools of cosmetology and electrology shall be routinely inspected for compliance with applicable laws relating to the public health and safety no more then two times per year, which routine health and safety inspections shall be in addition to any inspections conducted in compliance with disciplinary actions or in response to valid consumer complaints.

SEC. 11. Section 8529 of the Business and Professions Code is

amended to read:

8529. The registrar, with the approval of the board and of the director, and subject to the State Civil Service Act, may appoint and fix the compensation of such other assistants as may be necessary.

SEC. 12. Section 9532 of the Business and Professions Code is amended to read:

9532. The board shall enforce and administer this chapter subject to the powers conferred upon the director by this code. The board shall have power to employ an executive officer and such other administrative, technical, and clerical employees as may be reasonably necessary for the administration of this chapter. The board shall elect officers, providing that the office of president shall be for a term not to exceed one year and that no member shall succeed himself or herself as president of the board. The board shall adopt and use a common seal for the authentication of its orders and records.

SEC. 13. Section 9533.5 of the Business and Professions Code is amended to read:

9533.5. For the purpose of enforcing this chapter, any investigator of the department's Division of Investigation may, pursuant to subdivision (c) of Section 155, enter and inspect any clothes cleaning establishment, dyeing plant, spotting and pressing shop or store, press shop or store, drycleaning agency, hat renovating establishment, fur renovating establishment, or school or college of cleaning or dyeing, spotting, or pressing during customary business hours or at any time when that establishment, plant, shop, store, or agency is in operation. The owner, lessee, manager, or operator thereof shall permit the persons designated in this section to enter and make inspections at the time and for the purpose stated in this section.

SEC. 14. Section 9922 of the Business and Professions Code is amended to read:

9922. In accordance with the State Civil Service Act, the director may appoint and fix the compensation of such inspectors and other personnel as may be necessary for the administration of this chapter.

SEC. 15. Section 19004 of the Business and Professions Code is amended to read:

19004. (a) "Bureau" refers to the Bureau of Home Furnishings.

(b) "Chief" refers to the chief of the bureau.

(c) "Inspector" refers to an inspector either employed by, or under contract to, the bureau.

(d) "Director" refers to the Director of Consumer Affairs.

(e) "Department" refers to the Department of Consumer Affairs.

(f) "Board" refers to the California Advisory Board of Home Furnishings.

SEC. 16. Section 19032 of the Business and Professions Code is amended to read:

19032. In accordance with the State Civil Service Act, the director may appoint and fix the compensation of such inspectors

and other personnel as may be necessary for the administration of this chapter.

CHAPTER 1383

An act to amend Sections 86, 91, and 1141.11 of the Code of Civil Procedure, and to amend Sections 72602.4, 73641, 73672, 73681, 74001, 74131, 74341, 74601, 74801, 74921, and 74961 of, and to add Section 72602.20 to, the Government Code, relating to courts.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 86 of the Code of Civil Procedure is amended to read:

86. (a) Each municipal and justice court has original jurisdiction of civil cases and proceedings as follows:

(1) In all cases at law in which the demand, exclusive of interest, or the value of the property in controversy amounts to twenty-five thousand dollars ($25,000) or less, except cases which involve the legality of any tax, impost, assessment, toll, or municipal fine, except the courts have jurisdiction in actions to enforce payment of delinquent unsecured personal property taxes if the legality of the tax is not contested by the defendant.

(2) In actions for dissolution of partnership where the total assets of the partnership do not exceed twenty-five thousand dollars ($25,000); in actions of interpleader where the amount of money or the value of the property involved does not exceed twenty-five thousand dollars ($25,000).

(3) In actions to cancel or rescind a contract when the relief is sought in connection with an action to recover money not exceeding twenty-five thousand dollars ($25,000) or property of a value not exceeding twenty-five thousand dollars ($25,000), paid or delivered under, or in consideration of, the contract; in actions to revise a contract where the relief is sought in an action upon the contract if the court otherwise has jurisdiction of the action.

(4) In all proceedings in forcible entry or forcible or unlawful detainer:

(A) In actions to recover possession of real property where rent is charged, and the amount of the last rental charged is one thousand dollars ($1,000) per month or less, and the whole amount of damages claimed is twenty-five thousand dollars ($25,000) or less.

(B) In all other actions to recover possession of real property where the rental value is one thousand dollars ($1,000) per month or less, and the whole amount claimed is twenty-five thousand dollars ($25,000) or less.

(5) In all actions to enforce and foreclose liens on personal property where the amount of the liens is twenty-five thousand dollars ($25,000) or less.

(6) In all actions to enforce and foreclose liens of mechanics, materialmen, artisans, laborers, and of all other persons to whom liens are given under the provisions of Chapter 2 (commencing with Section 3109) of Title 15 of Part 4 of Division 3 of the Civil Code, or to enforce and foreclose an assessment lien on a condominium created pursuant to Section 1356 of the Civil Code, where the amount of the liens is twenty-five thousand dollars ($25,000) or less. However, where an action to enforce the lien is pending in a municipal or justice court, and affects property which is also affected by a similar action pending in a superior court, or where the total amount of the liens sought to be foreclosed against the same property by action or actions in a municipal or justice court aggregates an amount in excess of twenty-five thousand dollars ($25,000) the municipal or justice court in which any such action, or actions, is, or are, pending, upon motion of any interested party, shall order the action or actions pending therein transferred to the proper superior court. Upon the making of the order, the same proceedings shall be taken as are provided by Section 399 with respect to the change of place of trial.

(7) In actions for declaratory relief when brought by way of cross-complaint as to a right of indemnity with respect to the relief demanded in the complaint or a cross-complaint in an action or proceeding otherwise within the jurisdiction of the municipal or justice court.

(8) To issue temporary restraining orders and preliminary injunctions, to take accounts, and to appoint receivers where necessary to preserve the property or rights of any party to an action of which the court has jurisdiction; to appoint a receiver and to make any order or perform any act, pursuant to Title 9 (commencing with Section 680.010) of Part 2 (enforcement of judgments); to determine title to personal property seized in an action pending in such court.

(9) In all actions under Article 3 (commencing with Section 708.210) of Chapter 6 of Division 2 of Title 9 of Part 2 for the recovery of an interest in personal property or to enforce the liability of the debtor of a judgment debtor where the interest claimed adversely is of a value not exceeding twenty-five thousand dollars ($25,000) or the debt denied does not exceed twenty-five thousand dollars ($25,000).

(10) In all arbitration-related petitions filed pursuant to Article 2 (commencing with Section 1292) of Chapter 5 of Title 9 of Part 3, if the petition is based upon the subject matter of a pending action properly filed in the municipal court.

(b) Each municipal and justice court has jurisdiction of cases in equity as follows:

(1) In all cases to try title to personal property when the amount involved is not more than twenty-five thousand dollars ($25,000).

(2) In all cases when equity is pleaded as a defensive matter in any case otherwise properly pending in a municipal or justice court.

(3) To vacate a judgment or order of such municipal or justice court obtained through extrinsic fraud, mistake, inadvertence, or excusable neglect.

(c) In any action that is otherwise within its jurisdiction, the court may impose liability whether the theory upon which liability is sought to be imposed involves legal or equitable principles.

(d) Changes in the jurisdictional ceilings made by amendments to this section at the 1977–78 Regular Session or the 1985–86 Regular Session of the Legislature shall not constitute a basis for the transfer to another court of any case pending at the time such changes become operative.

SEC. 2. Section 91 of the Code of Civil Procedure is amended to read:

91. (a) Except as otherwise provided in this section, the provisions of this article apply to every municipal and justice court civil action, including cases submitted to arbitration or on the arbitration hearing list, pending in the municipal and justice courts, on or after July 1, 1983, in which the amount in controversy is twenty-five thousand dollars ($25,000) or less. "Amount in controversy" means the amount of the demand, or the recovery sought, or the value of the property, or the amount of the lien, which is in controversy in the action, exclusive of attorney fees, interest, and costs. These provisions also apply to any action transferred to a municipal or justice court by reason of lack of jurisdiction in the court in which it was filed.

(b) The provisions of this article do not apply to any action under Chapter 5A (commencing with Section 116) or any proceeding under Chapter 4 (commencing with Section 1159) of Title 3 of Part 3.

(c) Any action may, upon noticed motion, be withdrawn from the provisions of this article, upon a showing that it is impractical to prosecute or defend the action within the limitations of these provisions.

(d) Special demurrers, motions to strike, and requests for discovery, pending or determined prior to July 1, 1983, shall be subject to the law in effect on June 30, 1983.

SEC. 3. Section 1141.11 of the Code of Civil Procedure is amended to read:

1141.11. (a) In each superior court with 10 or more judges, all at-issue civil actions pending on or filed after the operative date of this chapter shall be submitted to arbitration, by the presiding judge or the judge designated, under this chapter if the amount in controversy in the opinion of the court will not exceed twenty-five thousand dollars ($25,000) for each plaintiff, which decision shall not be appealable.

(b) In each superior court with less than 10 judges, the court may provide by local rule, when it determines that it is in the best

interests of justice, that all at-issue civil actions pending on or filed after the operative date of this chapter, shall be submitted to arbitration by the presiding judge or the judge designated under this chapter if the amount in controversy in the opinion of the court will not exceed twenty-five thousand dollars ($25,000) for each plaintiff, which decision shall not be appealable.

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

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

SEC. 4. Section 72602.4 of the Government Code is amended to read:

72602.4. In addition to the number of judges prescribed in Section 72602, at such time as the Los Angeles County Board of Supervisors finds there are sufficient funds for any number of additional judges up to a total number of 20 for the Los Angeles Municipal Court District and adopts a resolution or resolutions to that effect, there shall be those additional judges in the Los Angeles Municipal Court District.

SEC. 5. Section 72602.20 is added to the Government Code, to read:

72602.20. In addition to the number of judges prescribed in Section 72602, at such time as the Los Angeles County Board of Supervisors finds there are sufficient funds for a total of up to two additional judges for the Compton Municipal Court District and adopts a resolution or resolutions to that effect, there shall be a total of two additional judges for the Compton Municipal Court District; and notwithstanding any other provision of law, following the appointment of the first additional judge there shall be only 2.6 court commissioners in the district, following the appointment of the second additional judge, there shall be only 1.6 court commissioners in the district. The part-time commissioner in the Compton Municipal Court District shall be compensated at six-tenths of that received by a commissioner, unless and until the Los Angeles County Board of Supervisors finds that there are sufficient funds for up to two additional court commissioners for that district and adopts a

resolution or resolutions to that effect, at which time there shall be such additional number of court commissioners as stated in the resolution or resolutions for the Compton Municipal Court District.

SEC. 6. Section 74341 of the Government Code is amended to read:

74341. There shall be 23 judges. However, at such time as the board of supervisors finds there are sufficient funds and space available for two additional judges and adopts a resolution to that effect, there shall be 25 judges, provided that a commissioner's position on the court is eliminated by that same resolution.

SEC. 7. Section 73641 of the Government Code is amended to read:

73641. There shall be eight judges; provided, that at such time as the board of supervisors finds there are sufficient funds and space available for one or two additional judges and adopts a resolution or resolutions to that effect, there shall be eight judges and the additional judge or judges provided for pursuant to this section.

SEC. 8. Section 73672 of the Government Code is amended to read:

73672. There shall be four judges in the Northern Solano Judicial District.

SEC. 9. Section 73681 of the Government Code is amended to read:

73681. There shall be 10 judges.

SEC. 10. Section 74001 of the Government Code is amended to read:

74001. There shall be the following number of judges: in the North Orange County Municipal Court, 12; in the Central Orange County Municipal Court, 13; in the West Orange County Municipal Court, nine, provided, that at such time as the Orange County Board of Supervisors finds there are sufficient funds for 10 judges and adopts a resolution to that effect, there shall be 10 judges; in the Orange County Harbor Municipal Court, eight; and in the South Orange County Municipal Court, four.

SEC. 11. Section 74131 of the Government Code is amended to read:

74131. There shall be six judges in the Riverside Judicial District, which shall include the City of Riverside. There shall be five judges in the Desert Judicial District, which shall include the Cities of Palm Springs, Indio, and Blythe. There shall be two judges in the Corona Judicial District, which shall include the City of Corona. There shall be three judges in the Mt. San Jacinto Judicial District, which shall include the Cities of Hemet, San Jacinto, Beaumont and Banning; provided, that at such time as the Riverside County Board of Supervisors finds there are sufficient funds for an additional judge for the Mt. San Jacinto Judicial District and adopts a resolution to that effect, there shall be four judges in the Mt. San Jacinto Judicial District. There shall be two judges in the Three Lakes Judicial District.

SEC. 12. Section 74601 of the Government Code is amended to read:

74601. There shall be four judges; provided, that at such time as the San Luis Obispo County Board of Supervisors finds there are sufficient funds for five judges and adopts a resolution to that effect, there shall be four judges. The judges shall select one of them to be presiding judge of the court. Thereafter, the duties of the presiding judge of the court shall alternate annually among the judges.

SEC. 13. Section 74801 of the Government Code is amended to read:

74801. There shall be six judges. However, on July 1, 1986, there shall be seven judges.

SEC. 14. Section 74921 of the Government Code is amended to read:

74921. Each of the municipal court districts established in Tulare County shall have the number of judges set out below opposite the name of the judicial district over which such court has jurisdiction:

Porterville Judicial District	1
Tulare-Pixley Judicial District	1
Visalia Judicial District	3

SEC. 15. Section 74961 of the Government Code is amended to read:

74961. There shall be four judges.

SEC. 16. 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. Section 3 of this act shall become operative only if Assembly Bill No. 48 of the 1985–86 Regular Session is enacted and takes effect on or before January 1, 1986, extending the judicial arbitration program.

SEC. 17. Section 3 of this act shall be applicable to actions pending on or filed on or after January 1, 1986.

CHAPTER 1384

An act to add Section 667.85 to the Penal Code, relating to crimes.

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

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

SECTION 1. Section 667.85 is added to the Penal Code, to read:

667.85. Any person convicted of a violation of Section 207, who kidnapped or carried away any child under the age of 14 years with

the intent to permanently deprive the parent or legal guardian custody of that child, shall be punished by an additional term of five years.

CHAPTER 1385

An act to add and repeal Chapter 3.3 (commencing with Section 8256) of Division 1 of Title 2 of the Government Code, to repeal Division 9 (commencing with Section 16000) of the Unemployment Insurance Code, and to repeal Sections 3 and 4 of Chapter 1596 of the Statutes of 1984, relating to displaced homemakers, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Chapter 3.3 (commencing with Section 8256) is added to Division 1 of Title 2 of the Government Code, to read:

CHAPTER 3.3. DISPLACED HOMEMAKER EMERGENCY LOAN ACT

8256. This chapter shall be known and may be cited as the Displaced Homemaker Emergency Loan Act.

8256.1. The Legislature hereby finds and declares that:

(a) Many persons, primarily women who have relied upon a spouse as primary or sole means of support, are temporarily without adequate resources to sustain themselves or their dependents, or to become self-sufficient, during transition times occasioned by abandonment, divorce, or widowhood.

(b) These persons, because of past financial status, may not qualify for public assistance programs. Often, they are ineligible for unemployment payments or other than minimal social security benefits because of their employment history. In many cases, they jointly own property, serving as a principal residence, which they are unable to liquidate in order to provide financial resources, yet which disqualifies them from receiving public assistance.

(c) An emergency loan program is necessary to assist displaced homemakers in adjusting to the fiscal, emotional, and career crises often inherent in abandonment, separation, divorce, or widowhood, and to provide them the opportunities and education necessary to live independently and become effective participants in the work force.

(d) The creation of the loan program contained in this chapter is an important enabling method for these persons to enhance their lives and to ensure their opportunity to achieve self-sufficiency.

8257. The Legislature hereby creates the Displaced Homemaker Emergency Loan Act which shall be administered by the California Commission on the Status of Women as a pilot project in the Counties of Marin, San Francisco, and Alameda.

(a) The commission is authorized to make any regulations, guidelines, and agreements deemed necessary by the commission to carry out the purposes and provisions of this act.

(b) An advisory committee shall be formed including a representative each from the California Commission on the Status of Women; the State Treasurer's Office; the Business, Transportation and Housing Agency; the County of Marin Commission on the Status of Women; the Student Aid Commission; and a displaced homemaker service provider and a displaced homemaker selected by the California Commission on the Status of Women. The commission shall consult with the advisory committee and other appropriate officials in developing and administering this act.

(c) Loans may be made to displaced homemakers in amounts not to exceed two thousand five hundred dollars ($2,500) per displaced homemaker.

(d) Applications for loan guarantees shall be filed with the commission within six months from the displacement date.

(e) Loans shall not be made for purposes for which other public assistance is available.

(f) Priority shall be given to applicants who are participating in job search or educational programs designed to improve the employability of the individual or who meet the requirements of paragraph (4) of subdivision (a) of Section 8257.2. Loans shall not be made for this purpose if other assistance is available.

(g) Repayment of a loan shall commence no later than nine months after receipt of the loan, with an option to postpone the commencement of payments another six months in cases of need which are verified by the commission.

(h) Full payment shall be made within 48 months after commencing loan repayment.

(i) The minimum monthly payment on each loan shall be twenty-five dollars ($25).

8257.1. Loans shall be made for any of the following purposes:

(a) To maintain or acquire a residence, or electrical, gas, or telephone service.

(b) For medical emergencies or to maintain health insurance.

(c) For the cost of short-term services or programs designed to improve employability.

(d) For emotional or psychological counseling or therapy.

(e) For child care and related expenses.

(f) For other emergencies or expenses necessary for the basic maintenance of the household and to enable the household to be self-sufficient.

8257.2. (a) "Displaced homemaker" means a person who has been abandoned by, or separated from, a spouse, divorced, or

widowed and who has an economic need caused by the displacement, the criteria for which shall include any of the following categories:

(1) While married, did not work for a continuous period of at least five years up until the time of displacement or whose work did not provide sufficient job skills to enable him or her to find employment suitable to sustain him or her and the family.

(2) Whose income, at the time of displacement, did not amount to more than one-third of the gross household income and did not exceed two-thirds of the statewide median household income.

(3) Whose employment has ended within six months of displacement because of stress related to displacement.

(4) Because of age or care of dependents, has added economic burdens related to the displacement.

(b) "Displacement" means divorce, widowhood, or abandonment by, or separation from, a spouse.

(c) The date of displacement by divorce means the date of legal dissolution of the marriage. The date of displacement by widowhood means the official date of death of a spouse. The official date of abandonment or separation means the date after which the spouse has been absent from the household and is withholding the preseparation level of support to the abandoned or separated spouse. For loans requested as a result of abandonment or separation, the borrower shall sign a statement certifying the official date of separation or abandonment from his or her spouse as a part of the loan application process.

(d) "Eligible lender" means:

(1) A national or state chartered bank, savings and loan association, or a credit union which is subject to examination and supervision by an agency of the United States or of this state.

(2) A pension fund as defined in the federal Employees Retirement Income Security Act.

(3) An insurance company which is subject to examination and supervision by an agency of the United States or this state.

(4) Any eligible lender approved by the commission to make loans pursuant to this chapter.

(e) "Insured displaced homemaker loan" means a loan, including a full line of credit, to a displaced homemaker by an eligible lender, as to which the payment of principal and interest is fully insured by the commission.

(f) "Loan guaranty" means the certificate, document, or endorsement issued by the commission as evidence of its insurance of an insured homemaker loan.

8257.3. There is hereby established in the State Treasury the Displaced Homemaker Emergency Loan Fund, which shall be used to provide loans pursuant to this chapter. Notwithstanding Section 13340, moneys in the fund are continuously appropriated for purposes of this chapter to the commission.

8258. (a) The commission, the Business, Transportation and

Housing Agency, and the State Treasurer shall select participating eligible lenders.

(b) An application to guaranty a loan made pursuant to the provisions of this chapter shall be made by an eligible lender on such form as the commission may require. The application shall set forth the amount of the loan, its maturity, interest rate, amortization, and any other information required by the commission.

(c) If, upon application by an eligible lender, the commission finds that the lender has made an eligible loan, the commission shall cause the loan to be guaranteed.

8258.1. Upon default by the borrower on any loan made pursuant to the provisions of this chapter, the lender, if a secured party pursuant to Division 9 (commencing with Section 9101) of the Commercial Code, shall take such steps, and avail itself of such rights and remedies as may be provided for in the security agreement and by virtue of Chapter 5 (commencing with Section 9501) of Division 9 of the Commercial Code except when, in the determination of the commission, special circumstances exist which do not warrant taking such action.

8258.2. (a) Upon default by the borrower on any loan made pursuant to the provisions of this chapter, the lender shall promptly notify the commission, and the commission shall, if requested, either at that time or after further collection efforts, promptly pay to the lender the amount of the loss sustained by the lender.

(b) In addition to the amount of loss, and with the approval of the commission, the lender may claim up to five hundred dollars ($500) for actual collection expenses incurred in the attempted collection of the loan. The collection expense shall be a charge against the Displaced Homemaker Emergency Loan Fund.

8258.3. Amounts recovered by a lender's collection efforts subsequent to presenting a claim for loss pursuant to this chapter shall be paid to the Treasurer for deposit in the Displaced Homemaker Emergency Loan Fund.

8258.4. Nothing in this chapter shall be construed to excuse the lender from exercising reasonable care and diligence in the making and collection of loans under the provisions of this chapter.

If the commission, after reasonable notice and opportunity for hearing to an eligible lender, finds that it has substantially failed to exercise the reasonable care and diligence required under this section, the commission shall disqualify that lender for further loans made pursuant to this chapter until the commission is satisfied that its failure has ceased and finds that there is reasonable assurance that the lender will in the future exercise necessary care and diligence.

8259. This chapter shall remain in effect until January 1, 1992, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1992, deletes or extends that date.

SEC. 2. Division 9 (commencing with Section 16000) of the Unemployment Insurance Code is repealed.

SEC. 3. Section 3 of Chapter 1596 of the Statutes of 1984 is

repealed.

SEC. 4. Section 4 of Chapter 1596 of the Statutes of 1984 is repealed.

SEC. 5. An implementation plan shall be prepared by the California Commission on the Status of Women, and submitted for review to the Department of Finance, the Legislature, and the Governor by April 30, 1986. No moneys appropriated by subdivision (a) of Section 6 of this act shall be expended until the Director of Finance determines that the implementation plan is in compliance with this act. The director's decision shall be made within 30 days after receipt of the plan. An evaluation of the operation of this act shall be submitted by the California Commission on the Status of Women on or before July 1, 1990, to the rules committee of each house of the Legislature for referral to the appropriate policy committee.

SEC. 6. There is hereby appropriated the sum of one million one hundred fifty thousand dollars ($1,150,000) from the General Fund to be allocated as follows:

(a) One million dollars ($1,000,000) to the Displaced Homemaker Emergency Loan Fund for the purposes of this act. The commission is authorized to transfer unused portions of the Displaced Homemaker Emergency Loan Fund to the Surplus Money Investment Fund. Interest earned on the Displaced Homemaker Emergency Loan Fund in an amount not to exceed two hundred thousand dollars ($200,000) shall be continuously appropriated to the fund and shall be available to offset the administrative costs to the commission for the loan guaranty program. Interest earned on the Displaced Homemakers Emergency Loan Fund may also be used by the commission to reduce the interest rates on each loan by an amount of not more than 2 percent.

(b) One hundred fifty thousand dollars ($150,000) to the California Commission on the Status of Women for administrative costs for the 1985–86 fiscal year.

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 implement the provisions of the Displaced Homemaker Emergency Loan Act as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 1386

An act to add Section 12921.4 to the Insurance Code, relating to insurance.

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

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

SECTION 1. Section 12921.4 is added to the Insurance Code, to read:

12921.4. (a) The commissioner shall, upon receipt of a written complaint with respect to the handling of an insurance claim or other obligation under the policy by an insurer or production agency, or alleged misconduct by an insurer or production agency, notify the complainant of the receipt of the complaint within 10 working days of receipt. Thereafter, the commissioner shall notify the complainant of the final action taken on his or her complaint.

The commissioner shall, if deemed appropriate, notify insurers or production agencies against whom the complaint is made of the nature of the complaint, may request appropriate relief for the complainant and may meet and confer with the complainant and the insurer in order to mediate the complaint. This section shall not be construed to give the commissioner power to adjudicate claims.

(b) The commissioner shall ascertain patterns of complaints and periodically evaluate the complaint patterns to determine what additional audit, investigative, or enforcement actions which may be taken by the commissioner and report on all actions taken with respect to those patterns of complaints in his or her annual report to the Governor pursuant to Section 12922. For the purposes of this subdivision, complaints mean those written complaints received by the commissioner under subdivision (a) and written complaints received by the commissioner from any other sources alleging misconduct or unlawful acts by insurers or production agencies.

CHAPTER 1387

An act to amend Section 273.6 of the Penal Code, relating to crimes.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 273.6 of the Penal Code is amended to read:

273.6. (a) Any willful and knowing violation of any of the the court orders set forth in this subdivision, when obtained pursuant to Section 4359, 4458, 4516, 7020, or 7021 of the Civil Code, Section 527.6 of the Code of Civil Procedure, or Chapter 4 (commencing with Section 540) of Title 7 of Part 2 of the Code of Civil Procedure, which results in an injury, shall be a misdemeanor punishable by a fine of not more than one thousand dollars ($1,000), or by imprisonment in

the county jail for not more than 6 months or by both the fine and imprisonment. In any event, whether a fine or imprisonment is imposed, or the sentence is suspended, the person shall be imprisoned in the county jail for at least 48 hours. This subdivision shall apply to the following court orders:

(1) An order enjoining any party from molesting, attacking, striking, threatening, sexually assaulting, battering, harassing, or disturbing the peace of the other party, or other named family and household members.

(2) An order excluding one party from the family dwelling or from the dwelling of the other.

(3) An order enjoining a party from specified behavior which the court determined was necessary to effectuate the orders under subdivision (a) or (b).

(b) Any person who willfully and knowingly violates an order obtained pursuant to Section 527.6 of the Code of Civil Procedure shall be punishable as provided in subdivision (a). However, a person who has previously been convicted one or more times of violating an order obtained pursuant to Section 527.6 of the Code of Civil Procedure upon charges separately brought and tried, shall be imprisoned in the county jail for not more than one year. Subject to the discretion of the court, the prosecution shall have the opportunity to present witnesses and relevant evidence at the time of the sentencing of a defendant pursuant to this subdivision.

(c) The prosecuting agency of each county shall have the primary responsibility for the enforcement of orders issued pursuant to the provisions listed in subdivisions (a) and (b).

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 1388

An act to repeal Section 4 of Chapter 42 of the Statutes of 1980, relating to burglary.

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

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

SECTION 1. Section 4 of Chapter 42 of the Statutes of 1980 is repealed.

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 1389

An act to amend Section 17272 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

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

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

SECTION 1. Section 17272 of the Revenue and Taxation Code is amended to read:

17272. (a) The maximum deduction allowable as provided by Section 219(b) of the Internal Revenue Code for an individual retirement account shall not exceed the lesser of the following:

(1) One thousand five hundred dollars ($1,500).

(2) An amount equal to 15 percent of the compensation includable in the individual's gross income for that taxable year.

(b) The maximum deduction allowable as provided by Section 219(b) of the Internal Revenue Code for simplified employee pensions shall not exceed the lesser of the following:

(1) Fifteen percent of the compensation from the employer includable in the employee's gross income for the taxable year (determined without regard to the employer contribution to the simplified employee pension).

(2) The amount contributed by the employer to the simplified employee pension and included in gross income (but not in excess of two thousand five hundred dollars ($2,500)).

(c) In the case of divorced persons, alimony and separate maintenance payments, as determined under Section 71 of the Internal Revenue Code, shall be treated as compensation for purposes of this section.

(d) No deduction shall be allowed for an individual for the taxable year if for any part of that year:

(1) He or she was an active participant in any of the following:

(A) A plan described in Section 401(a) of the Internal Revenue Code which includes a trust exempt from tax under Section 501(a) of the Internal Revenue Code.

(B) An annuity plan described in Section 403(a) of the Internal Revenue Code.

(C) A qualified bond purchase plan described in Section 405(a) of the Internal Revenue Code.

(D) A plan established for its employees by the United States, by

a state or political subdivision thereof, or by an agency or instrumentality of any of the foregoing.

(2) Amounts were contributed by his or her employer for an annuity contract described in Section 403(b) of the Internal Revenue Code (whether or not his or her rights in that contract are nonforfeitable).

(e) (1) A member of a reserve component of the armed forces (as defined in Section 261(a) of Title 10 of the United States Code) is not considered to be an active participant in a plan solely because he or she is a member of a reserve component unless he or she has served in excess of 90 days on active duty (other than active duty for training) during the year.

(2) An individual whose participation in a plan is based solely upon his or her activity as a volunteer firefighter and whose accrued benefit as of the beginning of the taxable year is not more than an annual benefit of one thousand eight hundred dollars ($1,800) (when expressed as a single life annuity commencing at age 65) is not considered to be an active participant in such a plan for the taxable year.

(f) The maximum deduction allowable as provided by Section 219(c) of the Internal Revenue Code shall not exceed the excess of the following:

(1) The lesser of:

(A) One thousand seven hundred fifty dollars ($1,750), or

(B) An amount equal to 15 percent of the compensation includable in the individual's gross income for the taxable year, over

(2) The amount allowed as a deduction under subdivision (a) for the taxable year.

SEC. 2. Section 17272 of the Revenue and Taxation Code is amended to read:

17272. (a) The deduction allowed under Section 219(a) of the Internal Revenue Code shall be limited to the amount provided in either subdivision (b) or (c).

(b) The maximum deduction allowable as provided by Section 219(b) of the Internal Revenue Code for an individual retirement account shall not exceed the lesser of the following:

(1) One thousand five hundred dollars ($1,500).

(2) An amount equal to 15 percent of the compensation includable in the individual's gross income for that taxable year.

(c) The maximum deduction allowable as provided by Section 219(b) of the Internal Revenue Code for simplified employee pensions shall not exceed the lesser of the following:

(1) Fifteen percent of the compensation from the employer includable in the employee's gross income for the taxable year (determined without regard to the employer contribution to the simplified employee pension).

(2) The amount contributed by the employer to the simplified employee pension and included in gross income (but not in excess of two thousand five hundred dollars ($2,500)).

(d) In the case of divorced persons, alimony and separate maintenance payments, as determined under Section 71 of the Internal Revenue Code, shall be treated as compensation for purposes of this section.

(e) No deduction shall be allowed for an individual for the taxable year if for any part of that year:

(1) He or she was an active participant in any of the following:

(A) A plan described in Section 401(a) of the Internal Revenue Code which includes a trust exempt from tax under Section 501(a) of the Internal Revenue Code.

(B) An annuity plan described in Section 403(a) of the Internal Revenue Code.

(C)

A plan established for its employees by the United States, by a state or political subdivision thereof, or by an agency or instrumentality of any of the foregoing.

(2) Amounts were contributed by his or her employer for an annuity contract described in Section 403(b) of the Internal Revenue Code (whether or not his or her rights in that contract are nonforfeitable).

(3) This subdivision shall not apply with respect to the employer contribution to a simplified employee pension.

(f) (1) A member of a reserve component of the armed forces (as defined in Section 261(a) of Title 10 of the United States Code) is not considered to be an active participant in a plan solely because he or she is a member of a reserve component unless he or she has served in excess of 90 days on active duty (other than active duty for training) during the year.

(2) An individual whose participation in a plan is based solely upon his or her activity as a volunteer firefighter and whose accrued benefit as of the beginning of the taxable year is not more than an annual benefit of one thousand eight hundred dollars ($1,800) (when expressed as a single life annuity commencing at age 65) is not considered to be an active participant in such a plan for the taxable year.

(g) The maximum deduction allowable as provided by Section 219(c) of the Internal Revenue Code shall not exceed the excess of the following:

(1) The lesser of:

(A) One thousand seven hundred fifty dollars ($1,750), or

(B) An amount equal to 15 percent of the compensation includable in the individual's gross income for the taxable year, over

(2) The amount allowed as a deduction under subdivision (b) for the taxable year.

SEC. 3. Section 17272 of the Revenue and Taxation Code is amended to read:

17272. (a) The deduction allowed under Section 219(a) of the Internal Revenue Code shall be limited to the amount provided in either subdivision (b) or (c).

(b) The maximum deduction allowable as provided by Section 219(b) of the Internal Revenue Code for an individual retirement account shall not exceed the lesser of the following:

(1) One thousand five hundred dollars ($1,500).

(2) An amount equal to 100 percent of the compensation includable in the individual's gross income for that taxable year.

(c) The maximum deduction allowable as provided by Section 219(b) of the Internal Revenue Code for simplified employee pensions shall not exceed the lesser of the following:

(1) Fifteen percent of the compensation from the employer includable in the employee's gross income for the taxable year (determined without regard to the employer contribution to the simplified employee pension).

(2) The amount contributed by the employer to the simplified employee pension and included in gross income (but not in excess of two thousand five hundred dollars ($2,500)).

(d) In the case of divorced persons, alimony and separate maintenance payments, as determined under Section 71 of the Internal Revenue Code, shall be treated as compensation for purposes of this section.

(e) The maximum deduction allowable as provided by Section 219(c) of the Internal Revenue Code shall not exceed the excess of the following:

(1) The lesser of:

(A) One thousand seven hundred fifty dollars ($1,750), or

(B) An amount equal to 100 percent of the compensation includable in the individual's gross income for the taxable year, over

(2) The amount allowed as a deduction under subdivision (a) for the taxable year.

SEC. 4. Section 17272 of the Revenue and Taxation Code is amended to read:

17272. (a) The deduction allowed under Section 219(a) of the Internal Revenue Code shall be limited to the amount provided in either subdivision (b) or (c).

(b) The maximum deduction allowable as provided by Section 219(b) of the Internal Revenue Code for an individual retirement account shall not exceed the lesser of the following:

(1) One thousand five hundred dollars ($1,500).

(2) An amount equal to 100 percent of the compensation includable in the individual's gross income for that taxable year.

(c) The maximum deduction allowable as provided by Section 219(b) of the Internal Revenue Code for simplified employee pensions shall not exceed the lesser of the following:

(1) Fifteen percent of the compensation from the employer includable in the employee's gross income for the taxable year (determined without regard to the employer contribution to the simplified employee pension).

(2) The amount contributed by the employer to the simplified employee pension and included in gross income (but not in excess

of two thousand five hundred dollars ($2,500)).

(d) In the case of divorced persons, alimony and separate maintenance payments, as determined under Section 71 of the Internal Revenue Code, shall be treated as compensation for purposes of this section.

(e) The maximum deduction allowable as provided by Section 219(c) of the Internal Revenue Code shall not exceed the excess of the following:

(1) The lesser of:

(A) One thousand seven hundred fifty dollars ($1,750), or

(B) An amount equal to 100 percent of the compensation includable in the individual's gross income for the taxable year, over

(2) The amount allowed as a deduction under subdivision (b) for the taxable year.

SEC. 5. (a) Section 2 of this bill incorporates amendments to Section 17272 of the Revenue and Taxation Code proposed by both this bill and AB 66. 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 17272 of the Revenue and Taxation Code, and (3) AB 742 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 66, in which case Sections 1, 3 and 4 of this bill shall not become operative.

(b) Section 3 of this bill incorporates amendments to Section 17272 of the Revenue and Taxation Code proposed by both this bill and AB 742. 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 17272 of the Revenue and Taxation Code, (3) AB 66 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 742 in which case Sections 1, 2 and 4 of this bill shall not become operative.

(c) Section 4 of this bill incorporates amendments to Section 17272 of the Revenue and Taxation Code proposed by this bill, AB 66, and AB 742. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1986, (2) all three bills amend Section 17272 of the Revenue and Taxation Code, (3) this bill is enacted after AB 66 and AB 742, in which case Sections 1, 2, and 3 of this bill shall not become operative.

SEC. 6. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act shall be applied in the computation of taxes for taxable years beginning on or after the first day of the calendar year in which this act becomes effective provided the effective date is more than 90 days prior to the last day of the calendar year. If the effective date is 90 days or less prior to the last day of the calendar year, the provisions of this act shall apply in the computation of taxes for taxable years beginning on or after the first day of the calendar year following the effective date.

CHAPTER 1390

An act to add Division 25 (commencing with Section 35000) to the Public Resources Code, relating to resources, and making an appropriation therefor.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Division 25 (commencing with Section 35000) is added to the Public Resources Code, to read:

DIVISION 25. COASTAL RESOURCES AND ENERGY ASSISTANCE

CHAPTER 1. GENERAL PROVISIONS

35000. This division shall be known and may be cited as the Coastal Resources and Energy Assistance Act.

35001. The Legislature finds and declares that it is essential that the state, in cooperation with local governments, invest a portion of federal revenues derived from the extraction of publicly owned, nonrenewable offshore energy resources for the sound protection and management of the state's renewable ocean and coastal resources.

35002. The Legislature further finds and declares that the federal government's accelerated and expanded federal offshore leasing program, in conjunction with the California State Lands Commission's submerged lands leasing program, have placed a greater strain on state and local government efforts to plan for and manage the ocean and coastal impacts caused by offshore oil and gas development.

35003. The Legislature further finds and declares, therefore, that a portion of federal revenues derived from the extraction of offshore energy resources should be expended by the state to further the following goals:

(a) Provision of financial assistance to coastal counties affected by federal and state offshore energy development.

(b) Assistance to local governments to exercise their responsibility for improving the management of the state's coastal resources.

CHAPTER 2. DEFINITIONS

35020. "Coastal city" means a city which lies, in whole or in part, within the coastal zone.

35021. "Coastal county" means a county or city and county which

lies, in whole or in part, within the coastal zone.

35022. "Coastal zone" means the coastal zone as defined in Section 30103.

35023. "Local coastal program" means a local coastal program as defined in Section 30108.6.

CHAPTER 3. COASTAL COUNTY OFFSHORE ENERGY ASSISTANCE

35030. The Secretary of Environmental Affairs, after consulting with the California Coastal Commission and the State Lands Commission concerning offshore energy activities, shall award block grants to coastal counties to be used for purposes of planning, assessment, mitigation, permitting, monitoring and enforcement, public services and facilities, and for other activities, related to offshore energy development, consistent with the requirements of the state's coastal management program.

35031. Prior to receiving block grants under this chapter, each coastal county shall submit a report to the Secretary of Environmental Affairs describing how the funds are to be expended. Before submitting the report, each coastal county shall provide opportunities for the public to review and comment on the report and shall hold at least one public hearing on the report.

35032. (a) The Secretary of Environmental Affairs shall determine the amount of each coastal county's block grant according to the following formula:

(1) Twenty-five percent of the funds appropriated pursuant to subdivision (a) of Section 35080 shall be allocated based on an estimate of the amount of oil and gas extracted from state or federal waters offshore of California that is expected in the next five years to be (A) landed in the county from offshore vessels and pipelines, and (B) refined or processed in the county after being transported through onshore pipelines which receive the oil or gas from marine terminals in state waters.

(2) Twenty-five percent of the funds appropriated pursuant to subdivision (a) of Section 35080 shall be allocated on the basis of the number of federal and state offshore tracts scheduled to be leased adjacent to the county within five years.

(3) Twenty percent of the funds appropriated pursuant to subdivision (a) of Section 35080 shall be allocated on the basis of the coastal county's shoreline mileage.

(4) Fifteen percent of the funds appropriated pursuant to subdivision (a) of Section 35080 shall be allocated on the basis of the coastal county's population.

(5) Twelve percent of the funds appropriated pursuant to subdivision (a) of Section 35080 shall be allocated on the basis of indirect effects of offshore oil development, including, but not limited to, degradation of air quality, increased need for public services due to location of support facilities, and impacts on port facilities. The Secretary of Environmental Affairs shall determine the

allocation of these funds based on evidence supplied by counties on the indirect effects of offshore oil development.

(b) If, after applying that formula, a coastal county would receive an amount greater than 20 percent of the amount appropriated pursuant to subdivision (a) of Section 35080, the Secretary of Environmental Affairs shall reduce the amount allocable to that county to 20 percent of the appropriated amount, with the remainder shared by other coastal counties in accordance with the formula.

(c) No coastal county shall receive less than 1 percent of the amount appropriated pursuant to subdivision (a) of Section 35080.

(d) Two percent of the amount appropriated pursuant to subdivision (a) of Section 35080 shall be allocated to the San Francisco Bay Conservation and Development Commission for allocation to counties within its jurisdiction that do not border on the Pacific Ocean.

(e) On an annual basis, the Secretary of Environmental Affairs shall review and assess county expenditures under this program. Not more than two hundred thousand dollars ($200,000) of the funds appropriated pursuant to subdivision (a) of Section 35080 may be used over a three-year period by the Secretary of Environmental Affairs to defray administrative costs.

CHAPTER 4. LOCAL GOVERNMENT COASTAL MANAGEMENT IMPROVEMENT PROGRAM

35040. (a) The Secretary of Environmental Affairs, after consulting with the California Coastal Commission and the State Lands Commission concerning offshore energy activities, shall award grants to coastal cities to be used for the purposes of planning, assessment, mitigation, permitting, monitoring and enforcement, public services and facilities, and for other activities related to offshore energy development, consistent with the requirements of the state's coastal management program.

(b) Prior to receiving grants under this chapter, each coastal city shall submit a report to the Secretary of Environmental Affairs describing how the funds are to be expended. Before submitting the report, each coastal city shall provide opportunities for the public to review and comment on the report and shall hold at least one public hearing on the report.

35040.5. Any funds appropriated in accordance with paragraph (b) of Section 35080 and not expended as described in Section 35040, may be awarded by the Secretary of Environmental Affairs for technical and financial assistance to coastal cities with approved local coastal programs to help them exercise effectively their responsibility for improving the management of the state's coastal resources. Technical and financial assistance shall be made available to coastal cities to do any of the following:

(a) Protect wetlands, flood plains, estuaries, beaches, dunes, and

fish and wildlife and their habitat within coastal areas.

(b) Minimize the loss of life and property in coastal flood-prone, storm surge, geologic hazard, and erosion-prone areas.

(c) Provide public access to the coast for recreational purposes, to acquire coastal view sheds, and to preserve and restore historic, cultural, and esthetic coastal sites.

(d) Facilitate the process for siting major facilities along the coast related to fisheries, recreation, and ports and other coastal dependent commercial uses, giving full consideration to environmental concerns as well as the need for economic development.

(e) Promote other coastal management improvements determined by the Secretary of Environmental Affairs to be consistent with the state's coastal management program.

35041. The Secretary of Environmental Affairs, in cooperation with the California Coastal Commission, shall develop and implement an application process to award local governments financial and technical assistance pursuant to this chapter on or before July 1, 1986.

35042. Any financial assistance provided to local governments under this chapter may not exceed 80 percent of the cost of carrying out the project. Block grant funds provided to coastal counties pursuant to Section 35030 may not be used for a local government's matching share under this section.

CHAPTER 5. FISHERIES PROTECTION PROGRAM

35050. The Department of Fish and Game shall expand its existing activities or initiate new activities in its marine resources program to do all of the following:

(a) Undertake regulatory, research, and contract activities, as well as coordination, with federal agencies, other state agencies, and local governments to improve the state's equipment and capability to respond to offshore oil spills.

(b) Research the effects of seismic testing on fish populations, including eggs and larvae.

35051. Not more than 3 percent of the funds appropriated pursuant to subdivision (c) of Section 35080 may be used by the Department of Fish and Game to defray administrative costs.

CHAPTER 6. FISCAL PROVISIONS

35080. The sum of thirty-eight million dollars ($38,000,000) of 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)), is hereby appropriated or allocated for appropriation, as the case may be, from the Federal Trust Fund, for the purposes of this division, as follows:

(a) Twenty-five million dollars ($25,000,000) shall be deposited in

the Offshore Energy Assistance Fund, which is hereby created in the State Treasury, and, notwithstanding Section 13340 of the Government Code, is hereby appropriated, without regard to fiscal years, to the Secretary of Environmental Affairs for the purposes of Chapter 3 (commencing with Section 35030).

(b) Ten million five hundred thousand dollars ($10,500,000) shall be deposited in the Local Coastal Program Improvement Fund, which is hereby created in the State Treasury, and is hereby appropriated without regard to fiscal years to the Secretary of Environmental Affairs for the purposes of Chapter 4 (commencing with Section 35040). If the money available for the purposes of this division is reduced, the appropriation in this subdivision shall be reduced or eliminated prior to the reduction of the appropriations contained in the remainder of this section.

(c) Two million five hundred thousand dollars ($2,500,000) shall be deposited in a separate account in the Fish and Game Preservation Fund and shall be available for appropriation to the Department of Fish and Game for the purposes of Chapter 5 (commencing with Section 35050) in accordance with the following allocation:

(1) Two million two hundred fifty thousand dollars ($2,250,000) for the purposes of subdivision (a) of Section 35050.

(2) Two hundred fifty thousand dollars ($250,000) for the purposes of subdivision (b) of Section 35050.

35081. It is the intent of the Legislature that the federal escrow funds appropriated or allocated pursuant to Section 35080 for the purposes of this division be used only to augment, and not be used to replace, state funds appropriated or allocated for those purposes.

CHAPTER 1391

An act to amend Section 69952 of, and to add Section 69954 to, the Government Code, relating to courts.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 69952 of the Government Code is amended to read:

69952. In criminal cases in which the court specifically so directs, the fee for reporting and for a transcript ordered by the court to be made shall be paid out of the county treasury on the order of the court. The court shall not order to be transcribed and paid for out of the county treasury any matter or material except that reported by the reporter pursuant to Code of Civil Procedure Section 269. When there is no official reporter in attendance and a reporter pro tempore

is appointed, his or her reasonable expenses for traveling and detention shall be fixed and allowed by the court and paid in like manner. When the court orders a daily transcript, necessitating the services of two phonographic reporters, the reporting fee for each of the reporters and the transcript fee shall be proper charges against the county treasury, and the daily transcript shall be pursuant to Code of Civil Procedure Section 269. When the daily transcript is prepared by a single reporter, an additional fee for technological services, as set by the court with the agreement of the reporter, may be imposed. However, the total of the fee for a single reporter and the fee for technological services shall be less than the total fee for two reporters.

SEC. 2. Section 69954 is added to the Government Code, to read:

69954. Transcripts prepared by a reporter using computer assistance and delivered on a medium other than paper shall be compensated at the same rate set for paper transcripts, except the reporter may charge an additional fee not to exceed the cost of the medium or any copies thereof.

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.

CHAPTER 1392

An act to amend Section 742 of, and to add Section 743 to, the Public Utilities Code, relating to electricity, and making an appropriation therefor.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 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 Public Utilities Commission take cognizance of the competitive disadvantages endured by many industrial users of large quantities of electricity in this state, in comparison to similarly-situated industrial users in other states, that the commission consider, adopt, and implement, to the extent feasible as soon as possible, electrical rate structures for these users which will not result in increased rates for other classes of customers, and that the benefits from any cost savings from the implementation of Section 743 of the Public Utilities Code, as added by Section 3 of this act, shall accrue to those industrial customers whose electric service is furnished

pursuant to rates established under Section 743 so as to improve this competitive situation and enhance the business environment of California by providing long-term rate stability.

SEC. 2. Section 742 of the Public Utilities Code is amended to read:

742. (a) As used in this section, "steel producer" means a producer of steel products in California which in 1981 or any subsequent year produced at least 75,000 tons of rolled or finished steel and which has a maximum demand for electricity of 4,000 kilowatts or more at one plant location. Any steel producer which transfers any substantial amount of employment from its facilities in this state to any out-of-state facility or otherwise substantially reduces employment at its facilities in this state below the June 30, 1985, level, or fails to maintain and make reasonable and prudent investments in its facilities, as determined by the commission, is ineligible for any electic rate established pursuant to this section.

(b) As used in this section, "system average rate" means total jurisdictional revenues of the electrical corporation divided by total jurisdictional sales.

(c) Every electrical corporation furnishing electricity to a steel producer shall, in addition to its regular service, prepare and file tariffs providing for an optional alternative interruptible service to the steel producer providing for interruption of service upon reasonable notice to the steel producer consistent with safety of operations by the steel producer and providing for limits upon the frequency and duration of interruptions of service which the commission finds are reasonable in relation to the needs of the electrical corporation for reductions in load to meet system peak requirements and the burdens imposed upon the steel producer of reducing its operations during periods of interruption of electrical service.

(d) The rate charged for interruptible service shall consist of a charge per kilowatt hour equal to 55 percent of the system average rate.

(e) The rate charged by an electrical corporation for regular, noninterruptible service to a steel producer shall include only a charge per kilowatt hour equal to 70 percent of the system average rate.

(f) Steel producers shall be offered electrical service tariffs based on their choice of either or a combination of both of the rates established pursuant to subdivisions (c) and (d).

(g) Any steel producer operating under a tariff established for interruptible electrical service on January 1, 1983, may elect to receive electrical service pursuant to this section, notwithstanding that tariff.

(h) The implementation of a heavy-industry tariff under Section 743 supersedes any tariff fixed or rate implemented under this section.

(i) The commission shall require that any costs associated with the

implementation of this section shall be borne by nonresidential electrical service customer classes other than public agencies through a method to be determined by the commission, except that the commission shall prohibit any electrical corporation which has not prepared and filed a heavy-industry tariff under Section 743 on or before January 2, 1986, from recovering through rates or charges any cost associated with the implementation of this section.

The commission shall report to the Legislature and the Governor on or before September 30, 1985, on the overall impact of this section, including the effect on rates charged for the production of steel and on rates charged other customers, and recommend whether or not this section should be extended beyond January 1, 1986.

This section shall remain in effect only until January 1, 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. 3. Section 743 is added to the Public Utilities Code, to read:

743. (a) As used in this section, "steel producer" means a producer of steel products in California which in 1981 or any subsequent year produced at least 75,000 tons of rolled or finished steel and which has a maximum demand for electricity of 4,000 kilowatts or more at one plant location. Any steel producer which transfers any substantial amount of employment from its facilities in this state to any out-of-state facility or otherwise substantially reduces employment at its facilities in this state below the June 30, 1985, level, or fails to maintain and make reasonable and prudent investments in its facilities, as determined by the commission, is ineligible for any electric rate established pursuant to this section.

(b) As used in this section, "frozen food processor" means a corporation or person engaged in the processing of food in California, which food is classified according to the Standard Industrial Classification Manual, 1972, in Industry No. 2037 and Industry No. 2038 of Group 203, of Food and Kindred Products Major Group 20, as specified in Section 2900.3 of Title 7 of the Code of Federal Regulations. "Processing of food" includes the postprocessing storage of frozen food in a warehouse, or other facility, until the frozen food leaves the control or responsibility of the frozen food processor or until the frozen food processor no longer has an obligation to store the food.

(c) As used in this section, "system average rate" means total jurisdictional revenues of the electrical corporation divided by total jurisdictional sales.

(d) Every electrical corporation furnishing electricity to a steel producer, frozen food processor, or other heavy-industry customer, as determined and specified by the electrical corporation, shall prepare and file tariffs providing rates which shall be lower than the system average rate and take into consideration all of the following:

(1) Specific service requirements of individual customers, including, but not limited to, reliability, interruptability, quantity of use, and requirements of voltage.

(2) Incentives to achieve conservation, improvements in efficiency, and time-of-day load shifting.

(3) Implementation at the option of the customer.

(e) The commission shall consider and approve tariffs consistent with this section on or before July 1, 1986.

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. The sum of two hundred twenty-nine thousand dollars ($229,000) is hereby appropriated from the Public Utilities Commission Utilities Reimbursement Account in the General Fund to the Public Utilities Commission for expenditure during the 1985–86 fiscal year for purposes of this act.

CHAPTER 1393

An act to add Section 2948.5 to the Civil Code, relating to real property.

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

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

SECTION 1. Section 2948.5 is added to the Civil Code, to read:

2948.5. Interest on the principal obligation of a promissory note secured by a mortgage or deed of trust on real property improved with one to four residential dwelling units shall not commence to accrue prior to close of escrow if the loan proceeds are paid into escrow or, if there is no escrow, the date upon which the loan proceeds have been made available for withdrawal as a matter of right, as specified in subdivision (d) of Section 12413 of the Insurance Code.

This section does not apply if the loan proceeds are paid or made available, as the case may be, in cash or by a check, cashier's check, negotiable order of withdrawal, share draft, traveler's check, or money order issued by, or drawn on, a financial institution, the accounts of which are insured by an agency or instrumentality of the United States, and which has an office in this state from which payment may be obtained.

CHAPTER 1394

An act to amend Section 429.11 of the Health and Safety Code, relating to health, and making an appropriation therefor.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. (a) The Legislature finds and declares as follows:

(1) California's rapidly changing social, economic, and environmental conditions present many new risks to public health which are often difficult to predict and prevent.

(2) While most communicable and infectious diseases have been controlled and are no longer major health risks, one out of every three Americans will contract some form of cancer during their lifetime.

(3) There is an urgent need to compile, analyze, and interpret statistical information which will enable public health officials to identify patterns of disease, isolate and research environmental health threats, and recommend actions to eliminate or reduce those threats.

(b) Therefore, it is the intent of the Legislature in this act to provide a more coordinated and efficient structure within state government to deal with these issues. The surveillance of occupational disease represents an important avenue for anticipating risks to public health.

SEC. 2. Section 429.11 of the Health and Safety Code is amended to read:

429.11. (a) The state department shall, by no later than January 1, 1987, establish and thereafter maintain a program on occupational health and occupational disease prevention, including, but not limited to, the following:

(1) Investigations into the causes of morbidity and mortality from work-induced diseases.

(2) Development of recommendations for improved control of work-induced diseases.

(3) Maintenance of a thorough knowledge of the effects of industrial chemicals and work practices on the health of California workers.

(4) Provision of technical assistance in matters of occupational disease prevention and control to the Department of Industrial Relations and other governmental and nongovernmental agencies, organizations, and private individuals.

(5) Collection and summarization of statistics describing the causes and prevalence of work-induced diseases in California.

(b) The functions provided for in subdivision (a) are intended to implement within the state department a continuing research and

development capability and a repository of hazardous substances capability which will reinforce and strengthen the administration of the California Occupational Safety and Health Act of 1973, Part 1 (commencing with Section 6300) of Division 5 of the Labor Code, including the capability to recommend occupational health standards to the California Occupational Safety and Health Standards Board. Whenever the repository identifies data gaps for any chemical regulated by the California Occupational Safety and Health Act of 1973, the State Department of Health Services shall notify the Division of Occupational Safety and Health of the Department of Industrial Relations of its finding.

(c) The state department shall submit a report to the Legislature by January 1, 1988, reviewing the activities of the program described in each paragraph of subdivision (a).

(d) Upon the request of the state department, and in furtherance of the goals of the occupational disease prevention program, employers shall provide to the state department the results of monitoring data, both exposure and medical, which has been collected pursuant to Cal-OSHA standards and regulations.

(e) The state department shall have access without delay to any place of employment during regular working hours and at other reasonable times to conduct investigations necessary to carry out the purposes of this article, including, but not limited to, research, health hazard evaluation, and epidemiological surveillance. In connection with any such investigation, the state department may question privately any employer, owner, operator, agent, or employee and review and copy records collected pursuant to Cal-OSHA standards and regulations, and other related records.

(f) The repository maintained pursuant to this section and Section 147.2 of the Labor Code shall contain the report issued pursuant to Sections 13124 and 13125 of the Food and Agricultural Code. Whenever a request for toxicity information is received concerning a chemical discussed in that report, the state department shall notify the requestor of the nature and extent of any data gaps identified in the report with respect to that chemical. Whenever the repository receives a request about toxicity information on any other chemical, in addition to providing available information about the known toxic effects of exposure to the chemical, the repository shall also notify the requester of a determination by any state agency or federal agency that the chronic health effects testing data on the chemical is inadequate or incomplete. State agencies which maintain information on the toxic effects of chemicals shall provide the repository with access to that information.

SEC. 3. The sum of five hundred thousand dollars ($500,000) is hereby appropriated from the General Fund to the State Department of Health Services to carry out the purposes of this act.

CHAPTER 1395

An act to add and repeal Section 25143.6 to the Health and Safety Code, relating to hazardous waste, and declaring the urgency thereof, to take effect immediately.

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

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

SECTION 1. Section 25143.6 is added to the Health and Safety Code, to read:

25143.6. (a) The department shall not classify as a hazardous waste, for purposes of disposal, any waste which results from the shredding of automobile bodies, household appliances, and sheet metal, if the producer of that waste demonstrates, and the department determines, that the waste will not pose a threat to human health or water quality if disposed of in a qualified Class III landfill, as specified in Section 2533 of Title 23 of the California Administrative Code, which is listed by a California regional water quality control board pursuant to subdivision (b). In making its determination that a producer's waste will not pose a threat to human health or water quality, the department shall use, as its standards, the criteria and procedures specified in Chapter 30 (commencing with Section 60001) of Division 4 of Title 22 of the California Administrative Code, for the identification of hazardous waste.

The department shall also, in making this determination, incorporate any relevant waste discharge requirements or other orders issued by the State Water Resources Control Board or a California regional water quality control board implementing applicable water quality plans, policies, rules and regulations adopted or approved by the State Water Resources Control Board pursuant to Division 7 (commencing with Section 13000) of the Water Code.

The department shall make its determination within 105 days of receipt of the information which is the basis of the demonstration from the producers.

The waste producer whose waste is so classified by the department shall provide the information which was the basis of the demonstration once a year and whenever a substantial change occurs in the mix of materials constituting the shredder feed. The producer shall also certify, in writing, to the department, that the producer has in place an ongoing program for inspection and removal of all automobile batteries, mufflers, and tailpipes from the shredder feed.

(b) Within 90 days after the effective date of this section, the following California regional water quality control boards shall prepare a list of Class III landfills, as specified in Section 2533 of Title

23 of the California Administrative Code, including at least one landfill in each specified water quality control region which is authorized to accept and dispose of the waste specified in subdivision (a): San Francisco Bay Region, Central Valley Region, Los Angeles Region, Santa Ana Region, and San Diego Region.

(c) Nothing in this section limits or abridges the powers or duties of the State Water Resources Control Board and any California regional water quality control board pursuant to Division 7 (commencing with Section 13000) of the Water Code.

(d) The classification of the waste specified in subdivision (a) as nonhazardous for the purposes of disposal shall not affect the status of that waste as a hazardous waste pursuant to any other statute and regulation, including those governing storage, transportation, manifests, and the payment of any hazardous waste disposal fees and taxes.

(e) This section does not authorize the disposal of hazardous waste in a Class III landfill if the waste was produced as the result of a remedial action at a site listed pursuant to Section 25356, unless the department determines that the waste is substantially the same as the waste specified in subdivision (a).

(f) This section shall remain in effect 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. The California Waste Management Board shall conduct a study on the need for long-term additional capacity for disposal of the waste specified in subdivision (a) of Section 25143.6 of the Health and Safety Code and report its findings to the Legislature on or before January 1, 1987.

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 the need to safely dispose of certain types of hazardous waste in facilities which will protect the public, it is necessary that this act take effect immediately.

CHAPTER 1396

An act to amend Section 11105.3 of the Penal Code, relating to criminal records, and making an appropriation therefor.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 11105.3 of the Penal Code is amended to read:

11105.3. (a) Notwithstanding any other provision of law, an employer may request from the Department of Justice records of all convictions involving any sex crimes, drug crimes, or crimes of violence of a person who applies for employment or volunteers for a position in which he or she would have supervisory or disciplinary power over a minor. The department shall furnish the information to the requesting employer and shall also send a copy of the information to the applicant.

(b) Any request for records under subdivision (a) shall include the applicant's fingerprints, which may be taken by the employer, and any other data specified by the department. The request shall be on a form approved by the department, and the department may charge a fee to be paid by the employer for the actual cost of processing the request, provided, that no fee shall be charged a nonprofit organization for processing the request. The department shall destroy an application within six months after the requested information is sent to the employer and applicant.

(c) The department shall adopt regulations to implement the provisions of this section.

(d) As used in this section "employer" means any nonprofit corporation or other organizations specified by the Attorney General which employs or uses the services of volunteers in positions in which the volunteer or employee has supervisory or disciplinary power over a child or children.

(e) As used in this section "sex crime" means a conviction for a violation or attempted violation of Section 220, 261, 261.5, 264.1, 267, 272, 273a, 273d, 285, 286, 288, 288a, 289, 314, 647a, or subdivision (d) of Section 647, or commitment as a mentally disordered sex offender under the provisions of Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

Conviction for a violation or attempted violation of an offense committed outside the State of California is a sex crime if such offense would have been a crime under one of the above sections if committed in California.

(f) As used in this section, "drug crime" means any felony or misdemeanor conviction, within 10 years of the date of the employer's request under subdivision (a), for a violation or attempted violation of the California Uniform Controlled Substances Act contained in Division 10 (commencing with Section 11000) of the Health and Safety Code, provided that no record of a misdemeanor conviction shall be transmitted to the employer unless the subject of the request has three or more misdemeanor convictions within the 10-year period.

(g) As used in this section, "crime of violence" means any felony or misdemeanor conviction within 10 years of the date of the employer's request under subdivision (a), for any of the offenses specified in subdivision (c) of Section 667.5 or a violation or

attempted violation of Chapter 3 (commencing with Section 207), Chapter 8 (commencing with Section 236), or Chapter 9 (commencing with Section 240) of Title 8 of Part 1, provided that no record of a misdemeanor conviction shall be transmitted to the employer unless the subject of the request has three or more misdemeanor convictions within the 10-year period.

SEC. 2. Section 11105.3 of the Penal Code is amended to read:

11105.3. (a) Notwithstanding any other provision of law, an employer may request from the Department of Justice records of all convictions involving any sex crimes, drug crimes, or crimes of violence of a person who applies for employment or volunteers for a position in which he or she would have supervisory or disciplinary power over a minor. The department shall furnish the information to the requesting employer and shall also send a copy of the information to the applicant.

(b) Any request for records under subdivision (a) shall include the applicant's fingerprints, which may be taken by the employer, and any other data specified by the department. The request shall be on a form approved by the department, and the department may charge a fee to be paid by the employer for the actual cost of processing the request. However, no fee shall be charged a nonprofit organization for processing the request. The department shall destroy an application within six months after the requested information is sent to the employer and applicant.

(c) The department shall adopt regulations to implement the provisions of this section.

(d) As used in this section "employer" means any nonprofit corporation or other organizations specified by the Attorney General which employs or uses the services of volunteers in positions in which the volunteer or employee has supervisory or disciplinary power over a child or children.

(e) As used in this section "sex crime" means a conviction for a violation or attempted violation of Section 220, 261, 261.5, 264.1, 267, 272, 273a, 273d, 285, 286, 288, 288a, 289, 314, 647a, or subdivision (d) of Section 647, or commitment as a mentally disordered sex offender under the provisions of former Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(f) As used in this section, "drug crime" means any felony or misdemeanor conviction, within 10 years of the date of the employer's request under subdivision (a), for a violation or attempted violation of the California Uniform Controlled Substances Act contained in Division 10 (commencing with Section 11000) of the Health and Safety Code, provided that no record of a misdemeanor conviction shall be transmitted to the employer unless the subject of the request has a total of three or more misdemeanor or felony convictions defined in subdivision (f) or (g) within the 10-year period.

(g) As used in this section, "crime of violence" means any felony

or misdemeanor conviction within 10 years of the date of the employer's request under subdivision (a), for any of the offenses specified in subdivision (c) of Section 667.5 or a violation or attempted violation of Chapter 3 (commencing with Section 207), Chapter 8 (commencing with Section 236), or Chapter 9 (commencing with Section 240) of Title 8 of Part 1, provided that no record of a misdemeanor conviction shall be transmitted to the employer unless the subject of the request has a total of three or more misdemeanor or felony convictions defined in subdivision (f) or (g) within the 10-year period.

(h) Conviction for a violation or attempted violation of an offense committed outside the State of California is a sex crime, drug crime, or crime of violence if the offense would have been a crime as defined in this section if committed in California.

SEC. 3. Section 2 of this bill incorporates amendments to Section 11105.3 of the Penal Code proposed by both this bill and AB 1117. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 11105.3 of the Penal Code, and (3) this bill is enacted after AB 1117, in which case Section 1 of this bill shall not become operative.

SEC. 4. The sum of forty-six thousand dollars ($46,000) is hereby appropriated from the General Fund to the Department of Justice for purposes of subdivision (b) of Section 11105.3 of the Penal Code, if that subdivision is amended during the 1985–86 Regular Session to provide that no fee shall be charged a nonprofit organization for processing a request under that subdivision.

CHAPTER 1397

An act to amend Sections 11895, 11961, 11963, 11964, 11971, 11983, 11983.2, 11983.5, 11987.3, 11987.5, 11987.6, 11991.6, and 11997 of, to repeal and add Sections 11882 and 11879 of, and to add Sections 11877.1 and 11983.21 to, the Health and Safety Code, relating to drug abuse programs.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 11877.1 is added to the Health and Safety Code, to read:

11877.1. The department is authorized to revoke or suspend methadone licenses when programs are in noncompliance with promulgated regulations. The department may take this disciplinary action against any licensee after an administrative hearing held by the department by any of the following:

(a) Imposing probation upon terms and conditions to be set forth

by the department.

(b) Suspending the license.

(c) Revoking the license.

SEC. 2. Section 11879 of the Health and Safety Code is repealed.

SEC. 3. Section 11879 is added to the Health and Safety Code, to read:

11879. (a) The identity and records of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with the performance of any drug abuse treatment or prevention effort function conducted, regulated, or directly or indirectly assisted by the department shall, except as provided in subdivision (c), be confidential and be disclosed only for the purposes and under the circumstances expressly authorized under subdivision (b) of this section.

(b) The content of any record referred to in subdivision (a) may be disclosed in accordance with the prior written consent of the client with respect to whom the record is maintained, but only to the extent, under the circumstances, and for the purposes as clearly stated in the release of information signed by the client.

(c) Whether or not the client, with respect to whom any given record referred to in subdivision (a) is maintained gives his or her written consent, the content of the record may be disclosed as follows:

(1) In communications between qualified professional persons employed by the treatment program in the provision of service.

(2) To qualified medical persons not employed by the treatment program to the extent necessary to meet a bona fide medical emergency.

(3) To qualified personnel for the purpose of conducting scientific research, management audits, financial and compliance audits, or program evaluation, but the personnel may not identify, directly or indirectly, any individual client in any report of the research, audit, or evaluation, or otherwise disclose patient identities in any manner. The term "qualified personnel," for purposes of this paragraph, means persons whose training and experience are appropriate to the nature and level of work in which they are engaged, and who, when working as part of an organization, are performing that work with adequate administrative safeguards against unauthorized disclosures.

(4) If the recipient of services is a minor, ward, or conservatee, and his or her parent, guardian, or conservator designates, in writing, persons to whom his or her identity in records or information may be disclosed, except that nothing in this section shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him or her in confidence by members of the client's family.

(5) If authorized by a court of competent jurisdiction granted after application showing probable cause therefor as provided in subdivision (c) of Section 1524 of the Penal Code.

(d) Except as authorized by a court order granted under paragraph (5) of subdivision (c), no record referred to in subdivision (a) may be used to initiate or substantiate any criminal charges against a client or to conduct any investigation of a client.

(e) The prohibitions of this section shall continue to apply to records concerning any individual who has been a client, irrespective of whether he or she ceases to be a client.

SEC. 4. Section 11882 of the Health and Safety Code is repealed.

SEC. 4.4. Section 11882 is added to the Health and Safety Code, to read:

11882. The state department shall require a system to prevent multiple registration by methadone clients.

SEC. 4.5. Section 11895 of the Health and Safety Code is amended to read:

11895. All accusations against licensees shall be filed within three years after the act or omission alleged as the ground for disciplinary action, except that with respect to an accusation alleging a violation of subdivision (c) of Section 11893, the accusation shall be filed within two years after the discovery by the State Department of Health Services of the alleged facts constituting the fraud or misrepresentation prohibited by such section.

SEC. 5. Section 11961 of the Health and Safety Code is amended to read:

11961. As used in this chapter:

(a) "Administrator" means the county drug program administrator designated pursuant to Section 11962.

(b) "Governing body" means the county board of supervisors or boards of supervisors in the case of counties acting jointly.

(c) "County drug program plan" means the drug program plan, as required pursuant to Section 11983.1.

(d) "Advisory board" means the county advisory board established pursuant to Section 11964.

(e) "Drug abuse services" means any service directed toward early intervention in, or alleviation or prevention of, drug abuse, including, but not limited to, diagnosis, evaluation, treatment, information, referral, consultation, and community services.

(f) "Director" means the Director of the State Department of Alcohol and Drug Programs.

(g) "Association" means the Association of the County Drug Program Administrators.

(h) "Provider" means an agency or person under contract with the county which provide drug program services, or county-operated services, or licensed or certified agencies offering drug services.

SEC. 6. Section 11963 of the Health and Safety Code is amended to read:

11963. The county drug program administrator shall have the following powers and duties:

(a) He or she shall be responsible for the preparation of the

county drug program plan.

(b) He or she shall exercise general supervision over the drug program services provided under the county drug program plan.

(c) He or she shall recommend to the board of supervisors, after consultation with the advisory committee, the provision of services, establishment of facilities, contracting for services or facilities, and other matters necessary or desirable in accomplishing the purposes of this chapter.

(d) He or she shall submit an annual report to the board of supervisors reporting all activities of the drug program, including a financial accounting of expenditures and a forecast of anticipated needs for the ensuing year.

(e) He or she shall carry on such studies as may be appropriate to the discharge of his or her duties.

(f) He or she shall be responsible for the ongoing coordination of all public and private drug abuse programs and services in the county.

(g) He or she shall administer all drug program funds allocated to the county under this chapter. All drug program funds allocated by the department to programs or projects within the county shall be expended only with the prior certification by the drug program administrator, and the county advisory board on drug programs, and notification to the board of supervisors, that the program allocation is consistent with the priorities in the approved county drug program plan.

(h) He or she shall be responsible to the board of supervisors, through administrative channels designated by the board of supervisors, for the drug program of the county.

(i) He or she shall be responsible for the planning and consultation process for the adoption of regulations as required by the department pursuant to Section 11864.

(j) He or she may participate with the other county drug program administrators in regular meetings of an association of county drug program administrators for the purposes of representing the counties in their relationship with the state on drug abuse services with respect to policies, standards, and administration.

SEC. 7. Section 11964 of the Health and Safety Code is amended to read:

11964. (a) Except as provided in subdivision (b), each county shall have an advisory board on drug programs composed of not less than seven members appointed by the board of supervisors. Members shall have a professional interest in, or personal commitment to, alleviating problems related to drug abuse in their community. The membership shall include representatives from various economic, social, and occupational groups and shall be broadly representative of the demographic characteristics of the county.

The advisory board shall be independent from any other advisory board established pursuant to any provision of state law. However,

the advisory board shall coordinate its efforts, where appropriate, with other county advisory boards concerned with drug problems.

This subdivision applies only to counties the population of which exceeds 125,000.

(b) In counties where the population does not exceed 125,000, the board of supervisors shall appoint an advisory board which shall be composed of not less than seven members which may be independent, under the jurisdiction of another health-related advisory board established pursuant to any provision of state law, or has the same membership as such other advisory board or agency. It is the intent of the Legislature that the boards meet the same membership requirements described in subdivision (a).

(c) If two or more counties the combined population of which exceeds 200,000 jointly apply to the department for funds under this part, the advisory board for its drug program shall consist of not less than 15 members, and shall otherwise be subject to the requirements of subdivision (a). If the combined population of the counties does not exceed 200,000, the requirements of subdivision (b) shall apply to the counties.

(d) The Legislature recognizes that persons employed by programs which provide drug abuse services and members of their boards of directors have a great deal of knowledge and experience to share with other people in the community concerned with alleviating drug abuse problems. The Legislature also recognizes that there are many people in the community who have knowledge about, or interest or experience in, alleviating drug problems who do not have any direct or indirect financial or other relationship to drug programs in the county. The Legislature desires to include both groups of these persons on advisory boards and also to establish control for real or apparent conflicts of interest that might arise.

Therefore, there may be at least two representatives of a public or private drug abuse program, and these members shall comply with existing conflict of interest laws when participating in the tasks and functions of the board. The advisory board shall not include in excess of 33⅓ percent of its membership any person, or his or her spouse, who is any of the following:

(1) A member of a board of directors or advisory body or employee of any county operated or county contract provider of drug services, or of any program approved pursuant to Section 11876.

(2) A direct recipient of any state funds allocated under this part pursuant to a contract with the department, which shall include compensation for contracted services or membership on an advisory body or board of directors of the recipient agency.

(e) Except as required under subdivision (b), the advisory board shall not include any person, or his or her spouse, who is any of the following:

(1) A member of the board of supervisors or a person on the staff of a member of the board of supervisors.

(2) A county employee of the health-related agency or

department, with which the drug program administrator designated pursuant to Section 11962 may be affiliated.

The board of supervisors may, by resolution, designate further categories of persons who may not serve on the board, provided that the prohibitions are consistent with the intent of this section. It is the intent of the Legislature in authorizing the board of supervisors to designate such further categories that the integrity of, and the community's confidence in, the advisory board be maintained.

(f) In the event that prior to the expiration of his or her term, a member ceases to retain the status which qualified him or her for appointment to the advisory board, his or her membership on the advisory board shall terminate and there shall be a vacancy on the advisory board to be filled by the board of supervisors.

(g) The members of the advisory board may be removed for cause pursuant to standards adopted by the advisory board which are consistent with the provisions of this article and which are approved by the board of supervisors.

(h) Each member of the board shall be appointed for a term of three years. Persons already serving as members of the drug advisory board may continue to serve until the expiration of their terms, provided that they meet the other conditions for membership required pursuant to this article.

(i) The advisory board shall meet at least bimonthly and may meet at such other times as may be deemed necessary by the chair or drug program administrator. The members of the advisory board shall serve without compensation, but may be reimbursed for any actual and necessary expenses incurred in connection with their duties under this article. However, the members may receive compensation out of county funds at the option of the board of supervisors.

(j) All meetings of the advisory board shall be open to the public and shall be subject to the provisions of Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code, relating to meetings of local agencies.

(k) The advisory board shall do all of the following:

(1) Participate in the planning process.

(2) Review the county drug program plan and any amendments to the plan.

(3) Advise the county drug program administrator on policies and goals of the county drug program and on any other related matters the drug program administrator refers to it, or which are raised by the advisory board.

(4) Encourage and educate the public to understand the nature of drug problems, and encourage support throughout the county for development and implementation of effective drug abuse programs.

(5) Review the community's drug program needs, services, facilities, and special programs.

(6) Review and approve the procedures used to insure citizen and professional involvement at all stages of the planning process leading

to the formulation and adoption of the county drug program plan.

SEC. 8. Section 11971 of the Health and Safety Code is amended to read:

11971. A drug abuse program includes, but is not limited to:

(a) Residential programs, which are those places which provide a residential setting and which provide such services as detoxification, counseling, care, treatment, and rehabilitation in a live-in facility.

(b) Drop-in centers, which are any places which are established for the purpose of providing counseling, advice, or a social setting for one or more persons who are attempting to understand, alleviate or cope with their problems of drug abuse.

(c) Crisis lines, which are those services which provide a telephone answering service which provides, in whole or in part, a crisis intervention, counseling or referral or a source of general drug abuse information.

(d) Free clinics, which are those places which are established for the purpose, either in whole or in part, of providing any medical or dental care or any social services or any treatment or referral to such services for those persons recognized as having a problem of narcotics addiction or drug abuse. Free clinics include primary care clinics licensed under paragraph (2) of subdivision (a) of Section 1204.

(e) Detoxification centers, which are those places established for the purpose of detoxification from drugs, regardless of whether or not narcotics, restricted dangerous drugs, or other medications are administered in the detoxification and regardless of whether detoxification takes place in a live-in facility or on an outpatient basis.

(f) Methadone programs, which are any programs, whether inpatient or outpatient, which offer methadone maintenance, detoxification or other services in conjunction with such methadone maintenance or detoxification, and those programs which provide supportive services to such methadone maintenance or detoxification programs.

(g) Chemical dependency programs, which are those programs, whether inpatient or outpatient, whether in a hospital or nonhospital setting, which offer a set program of treatment and rehabilitation for persons with a chemical dependency that is not primarily an alcohol dependency.

(h) Drug prevention programs which are programs that promote positive action that changes the conditions under which the drug-taking behaviors to be prevented are most likely to occur and a proactive and deliberate process which promotes health and well-being by empowering people and communities with resources necessary to confront complex and stressful life conditions.

(i) Nonspecific drug programs, which are those programs not specifically mentioned above but which provide or offer to provide, in whole or in part, for counseling, therapy, referral, advice, care, treatment, or rehabilitation as a service to those persons suffering from drug addiction, or other drug abuse related problems which are

either physiological or psychological in nature.

SEC. 9. Section 11983 of the Health and Safety Code is amended to read:

11983. Each county drug program plan and program budget shall be reviewed by the state department according to the provisions of this part and the guidelines and regulations adopted by the state department pursuant to this part.

The department shall estimate an allocation of state and federal funds available for each county to implement its approved program. In making allocations to counties, the department shall base its allocations on the population of each county. However, the department shall assure that each small population county receives a minimum amount of funds to provide adequate drug services and shall establish the minimum allocation as not less than the 1984–85 drug allocation to those counties, unless the condition as stated in subdivision (c) of Section 11983.5 exists. The department may take into account other factors in making the allocations if the department finds that the factors relate to the level of drug problems in the county. Not later than 45 days after introduction of the Budget Bill, the department shall notify each county regarding its preliminary allocation under this division, pending enactment of the Budget Bill.

SEC. 10. Section 11983.2 of the Health and Safety Code is amended to read:

11983.2. The county drug program plan shall include all of the following:

(a) A description of the proposed uses of the drug program funds which addresses all of the following:

(1) A statement of the goals and objectives of the county drug program.

(2) A description of the drug program, activities, and services supported by this plan, and characteristics of the individuals to be served.

(3) Criteria and methods for the distribution of the funds, including details on how the distribution of funds will be targeted on the basis of need.

(4) Criteria to evaluate the effective performance of programs activities and services supported by this grant.

(5) Beginning in fiscal year 1985–86, the fiscal year 1985–86 applications shall include a description of how the county has met the goals, objectives and needs in the use of funds for the previous year's application.

(b) Certification of compliance with all of the following requirements:

(1) County shall conduct a public hearing on the proposed use and distribution of funds and any changes shall be made public within the county on a timely basis and in such manner as to facilitate comments from interested persons.

(2) County shall administer the county drug program in

accordance with this division and all other applicable state and federal requirements including civil rights.

(3) Review of, and recommendations concerning, the planning process and the county drug program plan by the county drug advisory board and approval by the county board of supervisors.

(4) Permit and cooperate with specified state reviews and audits.

(5) Monitoring of all drug abuse treatment services receiving state or federal funds under this part.

(c) Budget information on the programs, activities and services supported by this drug program and the recipients of these services.

(d) List of unmet needs.

SEC. 11. Section 11983.21 is added to the Health and Safety Code, to read:

11983.21. The county may amend the county plan by submitting an amendment to the department for approval.

SEC. 13. Section 11983.5 of the Health and Safety Code is amended to read:

11983.5. (a) The 1984–85 fiscal year establishes base funding for the county drug allocation. It is the intent of the Legislature to assure the integrity and separate identity of a state drug abuse service by providing a separate allocation that is specifically for the drug abuse programs. Beginning with the 1985–86 fiscal year, cost-of-living adjustments, if granted, shall be tied to the previous year's base allocation.

(b) A county with a population of 200,000 or less may shift funds between alcohol and drug programs at its discretion to fund traditional alcohol and drug program services, as funded under, and defined in, subdivision (m) of Section 11765 and subdivision (e) of Section 11961. These shifts shall be reflected in the county alcohol and drug program plans. Prior to the county shifting funds between alcohol and drug programs, approval shall be requested and obtained by the county from the director. The request and approval shall be in writing. The request shall include a description of the process and procedures used by the county, including public hearings, in determining the need for the funding shift and shall be accompanied by resolutions of support from the county advisory board on alcohol problems and the county advisory board on drug programs. The request shall be submitted as part of the proposed annual county drug program plan submitted to the department by the board of supervisors pursuant to Section 11983.1.

(c) Notwithstanding any other provision of this section, the director may reduce funding below the base year amounts of counties which underspend their allocation for two consecutive years by more than 5 percent. Any reduction shall be limited to the difference between 5 percent of the allocation and the total amount unspent. The amounts underspent shall be based on the most recent cost reports.

(d) Upon approval by both parties, the county drug program plan shall be deemed to be a contract between the state and county. The

county drug program plan shall not be subject to review pursuant to Section 14780 of the Government Code.

SEC. 14. Section 11987.3 of the Health and Safety Code is amended to read:

11987.3. Drug abuse services allowable under the Medi-Cal program (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code) and included in the county's drug program plan and that are approved by the State Department of Alcohol and Drug Programs and the State Department of Health Services as qualified for financial participation under Title XIX of the federal Social Security Act shall be funded, notwithstanding Section 11987.4, at 100 percent of the state and federal cost by using an appropriate portion of the county's existing drug program allocation, as determined by the State Department of Alcohol and Drug Programs. The intent of the Legislature in enacting this section is to provide a funding source for counties to establish drug abuse services without any increased costs to the State General Fund and at the same time not to require the county to provide additional matching funds in order for the county to use a portion of its state share of local drug programs Medi-Cal funds now available to counties without a required 10-percent match. If the federal government approves this financial participation under Title XIX, then the state allocation to counties pursuant to this section shall be supplemented to the extent of the additional federal participation.

SEC. 15. Section 11987.5 of the Health and Safety Code is amended to read:

11987.5. (a) The cost of services specified in the county drug program plan shall be actual cost as determined with standard accounting practices or a negotiated rate. Negotiated rate is a specific and fixed dollar rate for a specified unit of service provided. Negotiated rate may be used as the cost of services only between the county and private provider. The negotiated rate shall be approved by the county prior to commencing services for reimbursement and the rate shall be based upon the projected cost of providing the services and projected revenues realized as a result of providing the services. The provider shall make available to the county the prior year's actual costs of providing the services and actual revenues where the information is available.

(b) Once the negotiated rate has been approved by the county, all participating governmental funding sources, except the Medi-Cal program (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code), shall be bound to that rate as the cost of providing all or part of the total county drug program as described in the county drug program plan for each fiscal year to the extent that the governmental funding sources participate in funding the county drug program. Where the State Department of Health Services adopts regulations for determining reimbursement of drug program services formerly allowable under

the Short-Doyle program and reimbursed under the Medi-Cal Act, those regulations shall be controlling only as to the rates for reimbursement of drug program services allowable under the Medi-Cal program and rendered to Medi-Cal beneficiaries. Providers under this section shall report to the State Department of Alcohol and Drug Programs and the county any information required by the State Department of Alcohol and Drug Programs in accordance with the procedures established by the Director of the State Department of Alcohol and Drug Programs.

(c) The Legislature recognizes that drug abuse services differ from mental health services provided through the State Department of Mental Health and therefore should not necessarily be bound by rate determination methodology used for reimbursement of those services formerly provided under the Short-Doyle program and reimbursed under the Medi-Cal Act. The State Department of Alcohol and Drug Programs and the State Department of Health Services shall, pursuant to Section 14021.5 of the Welfare and Institutions Code, develop a ratesetting methodology suitable for drug services reimbursed under the Medi-Cal program using an all-inclusive rate encompassing the costs of reimbursable service functions provided by each authorized modality.

(d) The department may negotiate net amount contracts between counties and the department in lieu of the annual county plan and budgets. Provisions of this contract shall be in accordance with the requirements in Section 11983.2.

SEC. 16. Section 11987.6 of the Health and Safety Code is amended to read:

11987.6. The director may reallocate, among county drug program plans, any funds for the current year appropriation, not budgeted by the counties under the county drug program plans. Reallocations shall be to counties desiring to provide services supplementary to services specified in approved county drug program plans in accordance with county and state drug program priorities.

SEC. 18. Section 11991.6 of the Health and Safety Code is amended to read:

11991.6. (a) Counties are encouraged to contract with providers for the provision of services funded through the state-approved county drug plan. Counties shall comply with the regulations of the department for the management of contracts with community organizations, as contained in the county administration and program services regulations as developed by the department.

(b) It is the intent of the Legislature that the state and counties work together to minimize audit exceptions. Audit findings as contained in the department audit reports may be appealed by counties directly to the department. Counties may retain disputed audit amounts of state and federal funds pending appeal, unless and until an audit appeal is resolved against the county.

(c) The department shall audit or contract to audit the

expenditures of counties and direct contractors at least every three years, including a sample of subcontractors funded in whole or in part with funds administered by the department.

(d) Counties shall repay to the department amounts of state and federal funds found, as a result of an audit, not to have been expended in accordance with the requirements set forth in this part, federal block grant law, federal or state regulations pertaining to drug abuse services, and the conditions set forth in any contract or interagency agreement. For organizations or services funded by any combination of state, federal, or other public and private funds, where a clear audit trail which shows the source and application of the funds is not maintained, repayment shall be determined by prorating audit findings between each funding source.

(e) For those audits conducted by the department, the director shall establish, administratively, policies and procedures for the resolution of disputed audit findings. The department shall consult with county drug administrators when proposing new procedures or changes in existing procedures for the resolution of disputed audit findings.

(f) There is established in the State Treasury an Audit Repayment Trust Fund. All undisputed repayments of state funds made pursuant to subdivision (c) and all repayments of state funds resulting from audit resolution procedures established pursuant to subdivision (d) shall be deposited in this fund. Money in the fund shall be available for allocation when appropriated by the Legislature.

(g) The department may deny or withhold payments or advances of funds to counties if it finds by audit or otherwise, that a program, the county planning process, or the county plan or any part thereof, is not in compliance with the provisions of this part, or if the department determines that the county is not following its approved plan.

(h) Notwithstanding the provisions of subdivision (a) of Section 53134 of the Government Code, audits performed pursuant to this section shall be conducted by qualified state or local government auditors or independent public accountants in accordance with the financial and compliance requirements of Federal Standards for Audit of Governmental Organizations, Programs, Activities, and Functions. These audits shall be completed no later than six months after completion of the audit fieldwork.

SEC. 19. Section 11997 of the Health and Safety Code is amended to read:

11997. The department shall conduct onsite monitoring and reviews of individual county operated drug programs and drug program administration with emphasis on the review of county administration. Reviews of county administration and programs shall be based on standards developed by the department by January 1, 1988. The administrative reviews shall include sampling of all services, including those provided by county contract providers.

CHAPTER 1398

An act to amend Section 11351 of, and to add Sections 11370.2, 11370.4, and 11379.8 to, the Health and Safety Code, relating to controlled substances.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. It is the intent of the Legislature in enacting Sections 3 and 4 of this act to punish more severely those persons who are in the regular business of trafficking in, or production of, narcotics and those persons who deal in large quantities of narcotics as opposed to individuals who have a less serious, occasional, or relatively minor role in this activity.

SEC. 1.5. Section 11351 of the Health and Safety Code is amended to read:

11351. Except as otherwise provided in this division, every person who possesses for sale or purchases for purposes of sale (1) any controlled substance 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) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, shall be punished by imprisonment in the state prison for two, three, or four years.

SEC. 2. Section 11370.2 is added to the Health and Safety Code, to read:

11370.2. (a) Any person convicted of a violation of Section 11351 or 11352 shall receive, in addition to any other punishment authorized by law, including Section 667.5 of the Penal Code, a full, separate, and consecutive three-year term for each prior felony conviction of Section 11351, 11352, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380, 11380.5, or 11383, whether or not the prior conviction resulted in a term of imprisonment.

(b) Any person convicted of a violation of Section 11378.5, 11379.5, 11379.6, 11380.5, or 11383 shall receive, in addition to any other punishment authorized by law, including Section 667.5 of the Penal Code, a full, separate, and consecutive three-year term for each prior felony conviction of Section 11351, 11352, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380, 11380.5, or 11383, whether or not the prior conviction resulted in a term of imprisonment.

(c) The enhancements provided for in this section shall be pleaded and proven as provided by law.

SEC. 3. Section 11370.4 is added to the Health and Safety Code, to read:

11370.4. (a) Any person convicted of a violation of Section 11351 or 11352 with respect to a substance containing heroin or cocaine

shall receive an additional term as follows:

(1) Where the substance exceeds three pounds by weight, the person shall receive an additional term of three years.

(2) Where the substance exceeds 10 pounds by weight, the person shall receive an additional term of five years.

(3) Where the substance exceeds 25 pounds by weight, the person shall receive an additional term of 10 years.

(b) The additional terms provided in this section shall not be imposed unless the allegation that the weight of the substance containing heroin or cocaine exceeds the amounts provided in this section is charged in the accusatory pleading and admitted or found to be true by the trier of fact.

(c) The additional terms provided in this section shall be in addition to any other punishment provided by law.

(d) Notwithstanding any other provision of law, the court may strike the additional punishment for the enhancements provided in this section 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.

SEC. 4. Section 11379.8 is added to the Health and Safety Code, to read:

11379.8. (a) Any person convicted of a violation of subdivision (a) of Section 11379.6 with respect to any substance containing a controlled substance which is specified in paragraph (21), (22), or (23) of subdivision (d) of Section 11054 or in paragraph (3) of subdivision (e) or in paragraph (2) of subdivision (f) of Section 11055 shall receive an additional term as follows:

(1) Where the substance exceeds three gallons of liquid by volume or one pound of solid substances by weight, the person shall receive an additional term of three years.

(2) Where the substance exceeds 10 gallons by liquid volume or three pounds of solid substance by weight, the person shall receive an additional term of five years.

(3) Where the substance exceeds 25 gallons of liquid volume or 10 pounds of solid substance by weight, the person shall receive an additional term of 10 years.

(b) The additional terms provided in this section shall not be imposed unless the allegation that the controlled substance exceeds the amounts provided in this section is charged in the accusatory pleading and admitted or found to be true by the trier of fact.

(c) The additional terms provided in this section shall be in addition to any other punishment provided by law.

(d) Notwithstanding any other provision of law, the court may strike the additional punishment for the enhancements provided in this section 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.

CHAPTER 1399

An act to amend the heading of Chapter 3.5 (commencing with Section 50171) of Part 1 of Division 31 of, to amend Sections 50173, 50175, 50176, 50190, and 50191 of, and to add Section 50171.5 to, and to add Article 4 (commencing with Section 50197) to Chapter 3.5 of Part 1 of Division 31 of, the Health and Safety Code, relating to housing, and declaring the urgency thereof, to take effect immediately.

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

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

SECTION 1. The heading of Chapter 3.5 (commencing with Section 50171) of Part 1 of Division 31 of the Health and Safety Code is amended to read:

CHAPTER 3.5. QUALIFIED MORTGAGE BONDS AND MORTGAGE CREDIT CERTIFICATES

SEC. 2. Section 50171.5 is added to the Health and Safety Code, to read:

50171.5. The Legislature finds and declares that a direct mortgage subsidy program is one of the most economically efficient and easily targeted programs that can assist households unable to enjoy homeownership under today's market conditions.

The Legislature also finds and declares that the preservation and promotion of homeownership is beneficial to the social and economic fabric of the people of the state and provides economic balance and stability to cities and counties within this state.

The Legislature also finds and declares that housing affordability is a serious and continuing problem confronting first-time homebuyers. This also has serious economic and social implications for the well-being of the state. First-time homebuyers are of critical importance to the state because they generate significant economic activity through their purchases of housing.

It is, therefore, necessary to implement a program, which, when enacted, will further the purposes of this division. The provisions of the act which enacted this section during 1985 shall be liberally construed to effect the purposes of that act.

SEC. 3. Section 50173 of the Health and Safety Code is amended to read:

50173. This chapter shall be known as and may be cited as the Costa-Marks Mortgage Bond and Credit Certificate Act.

SEC. 4. Section 50175 of the Health and Safety Code is amended to read:

50175. This chapter is enacted in implementation of the

Mortgage Subsidy Bond Tax Act of 1980 (Title XI, Public Law 96-499) and Section 612 of the Tax Reform Act of 1984 (Public Law 98-369). Accordingly, the definitions contained in this article and the provisions of this chapter shall be construed to be consistent with the purposes and provisions of those federal acts and in its implementation. This chapter does not apply to any issuance of bonds which is excepted from, or otherwise not affected by, the federal acts.

To the extent that any provision of this chapter is held to be inconsistent with or repugnant to the federal acts, the provision shall be given effect in accordance with its terms to the greatest extent possible and consistent with the federal acts, and the inconsistency shall have no effect on the remaining provisions of this chapter.

SEC. 5. Section 50176 of the Health and Safety Code is amended to read:

50176. As used in this chapter, the following terms have the following meanings:

(a) "Allocation" means the maximum aggregate principal amount of qualified mortgage bonds that a state or local agency is allocated to issue in any calendar year as provided in Sections 50189, 50190, and 50191.

(b) "Certificate credit rate" means the rate of the credit allowed by this chapter which is specified in the mortgage credit certificate.

(c) "Certified indebtedness amount" means the amount of indebtedness which meets both of the following criteria:

(1) Is incurred by the taxpayer for any of the following purposes:

(A) To acquire the principal residence of the taxpayer.

(B) As a qualified home improvement loan, as defined by Section 103A(*l*)(6) of Title 26 of the United States Code, on that residence.

(C) As a qualified rehabilitation loan, as defined by Section 103A(*l*)(7) of Title 26 of the United States Code.

(2) Is specified in the mortgage credit certificate.

(d) "Committee" means the Mortgage Bond Allocation Committee established pursuant to Section 50185.

(e) "Entitlement allocation" means the allocation of qualified mortgage bonds to a state agency pursuant to Section 50190, and with respect to a local agency, the allocation of qualified mortgage bonds pursuant to subdivision (a) of Section 50189.

(f) "Federal act" means both of the following:

(1) For purposes of qualified mortgage bonds, Section 103A of the Internal Revenue Code of 1954 as enacted by the Mortgage Subsidy Bond Tax Act of 1980 or as hereafter amended, and includes administrative regulations adopted pursuant to that act.

(2) For purposes of mortgage credit certificates, Section 612 of the Tax Reform Act of 1984 (Public Law 98-369).

(g) Except as otherwise provided in Section 50197, "issuer" means a state agency or local agency and includes a redevelopment agency, housing authority or other local entity, authorized by state law to issue bonds, to which a local agency has assigned an allocation under

this chapter.

(h) "Local agency" means a city, county, or city and county.

(i) "Local bond limit" means 66⅔ percent of the state ceiling for each calendar year.

(j) "Median household income" means "median household income", as defined by subdivision (f) of Section 52020.

(k) "Mortgage credit certificate" means any certificate which does all of the following:

(1) Is issued under a qualified mortgage credit certificate program by a state or local agency that has authority to issue qualified mortgage bonds to provide financing on the principal residence of a taxpayer.

(2) Is issued to a taxpayer by a state or local agency in connection with the acquisition, qualified rehabilitation, or qualified home improvement of the taxpayer's principal residence.

(3) Specifies the certificate credit rate and the certified indebtedness amount.

(*l*) "Mortgage credit certificate program" means any program which is established by the state or a local agency for any calendar year in which the state or a local agency is authorized to issue qualified mortgage bonds and under which the issuing agency elects not to issue an amount of qualified mortgage bonds which it may otherwise issue during the calendar year.

(m) "Qualified mortgage bonds" has the same meaning as that specified in the federal act, as defined by paragraph (1) of subdivision (f).

(n) "State agency" means the California Housing Finance Agency, the Veterans Affairs Department, the University of California Board of Regents, or any other state agency having the authority to issue qualified mortgage revenue bonds.

(o) "State bond limit" means 33⅓ percent of the state ceiling for each calendar year.

(p) "State ceiling" has the same meaning as that specified in the federal act, as defined by paragraph (1) of subdivision (f) and as established in accordance with that federal act by the Mortgage Bond Allocation Committee as provided in Section 50187.

(q) "Supplementary allocation" means the allocation of qualified mortgage bonds to a local agency pursuant to subdivision (b) of Section 50189.

(r) "Territory" means for any city or city and county, the area within the boundaries of the city or city and county, and for any county, the area within the boundaries of the county not within the boundaries of any city.

SEC. 6. Section 50190 of the Health and Safety Code is amended to read:

50190. (a) One-third of the state ceiling shall be reserved for qualified mortgage bonds or mortgage credit certificates of state agencies and shall be allocated as follows: 3 percent shall be allocated for programs under the California National Guard Members

Revenue Bond Act of 1978, (Chapter 10 (commencing with Section 480) of Part 1 of Division 2 of the Military and Veterans Code), 6 percent shall be allocated to the Regents of the University of California faculty housing assistance program, 19 percent shall be allocated for programs under the Veterans Farm and Home Purchase Act of 1974 (Article 3.1 (commencing with Section 987.50) of Chapter 6 of Division 4 of the Military and Veterans Code), and 72 percent shall be allocated to the California Housing Finance Agency, for programs conducted pursuant to Part 3 (commencing with Section 50900) and Part 6 (commencing with Section 52500) of this division.

(b) Each state agency shall submit to the committee by March 1 of each calendar year, a plan for utilizing its allocation. The plan shall specify the approximate date or dates on which the agency will issue bonds or establish a mortgage credit certificate program and the approximate amount of each bond issuance or the amount of mortgage credit certificates to be issued. On June 1 and September 1 each agency shall submit a report to the committee on its progress in utilizing its allocation. After June 1 of each year, the committee may reallocate such portion of a state agency's allocation as the committee finds the agency will be unable to utilize during the calendar year first to another state agency, and if the committee determines there is no other state agency able to use this allocation, then to local agencies in the manner provided in subdivision (b) of Section 50189.

(c) If in any year a state agency conducting a program or programs specified in this section determines it will be unable to utilize the full amount of the authority specified, it shall promptly notify the committee, which shall provide for reallocation to one or more of the state agencies for other programs specified in this section. If there is no other state agency able to use this allocation, then it shall be allocated to local agencies in the manner provided in subdivision (b) of Section 50189.

(d) The committee may reduce the amount of the allocation specified in subdivision (a) for any state agency which did not use all or a substantial portion of its previous year's allocation, and may reallocate such sums as provided in subdivision (b).

(e) A state agency which establishes a mortgage credit certificate program may charge a fee which is reasonably sufficient to cover the costs of administering the program.

SEC. 7. Section 50191 of the Health and Safety Code is amended to read:

50191. (a) To apply for an allocation of qualified mortgage bonds, at least 30 days prior to issuing qualified mortgage bonds, a local agency shall file with the committee a notice specifying the amount of qualified mortgage bonds proposed to be issued, the approximate date on which the qualified mortgage bonds are to be issued, the amount of the proposed issuance attributable to the local agency's entitlement allocation under subdivision (a) of Section

50189, the portion of the proposed issuance, if any, which is to be a supplementary allocation under subdivision (b) of Section 50189, the portion of the proposed issuance, if any, which is an allocation assigned to the local agency pursuant to Section 50193 and what portion, if any, will be assigned to its housing authority or redevelopment agency. The committee may require the local agency to submit verification of amounts assigned to it pursuant to Section 50192.

The notice to the committee shall include a copy of a resolution adopted by the local agency's legislative body authorizing application for an allocation of bonds. In addition, the notice shall contain certification from the local agency to the committee that the local agency has on deposit in an interest-bearing trust account an amount, or contain certification that there is a letter of credit in an amount, equal to one-half of 1 percent of the dollar amount of qualified mortgage bonds being requested for allocation. When it finds special circumstances exist, the committee may reduce the amount of the deposit required. Those circumstances may include, but are not limited to, the participation of nonprofit developers in the local agency's proposed issuance. Except to the extent needed to pay costs incurred in connection with the proposed issue of qualified mortgage bonds, the deposit shall be forfeited to be used by the local agency to assist housing for persons of low and moderate income, in an amount equal to one-half of 1 percent of the dollar amount of bonds allocated to the local agency but not sold within the time period specified in this section. The committee may require the local agency to justify what constitutes costs and may disallow those costs which, in the committee's determination are unjustified. When the committee finds that a local agency has sold substantially all of its allocation of bonds, or, for reasons beyond the control of the local agency has not sold all or substantially all of its allocation of bonds, the committee may waive or reduce the requirement for the forfeiture of such amount.

If an issuer establishes a mortgage credit certificate program, the amount or a portion of the amount the issuer has on deposit in an interest-bearing account or in a letter of credit in accordance with the preceding paragraph, may be withdrawn by the issuer at the following times:

(1) All of the amount on deposit or the amount of the letter of credit immediately following the issuance of all of the issuer's mortgage credit certificates.

(2) That portion of the amount on deposit or the amount of the letter of credit in proportion to the amount of the mortgage credit certificates that have been issued by the issuer.

Prior to April 1, a local agency may not file, and the committee may not accept, a notice of intent to issue qualified mortgage bonds in excess of its entitlement allocation plus amounts assigned pursuant to Section 50192, unless all proceeds of qualified mortgage bonds in excess of such amounts are restricted for use exclusively to provide

mortgages to persons and families whose incomes do not exceed the applicable maximum incomes specified in paragraphs (1) and (2) of subdivision (b) of Section 50189.

The committee may continue any list from the previous year of notices filed by local agencies for the allocation of qualified mortgage bonds. If the committee elects to continue an existing list of notices, it shall require the local agency whose notice was received in the previous year to designate whether it wishes to remain on the list and whether it wishes it to be deemed accepted as of January 1 or April 1. If the committee elects to continue an existing list, notices received on or after January 1 shall be added to the existing list in the order received by the committee.

Upon receipt of a notice pursuant to this subdivision, the committee shall advise the local agency of the aggregate amount of qualified mortgage bonds in each allocation category previously approved pursuant to this chapter in that calendar year. Within five days of selling qualified mortgage bonds, the local agency shall notify the committee of the amount of qualified mortgage bonds sold.

(b) Except as provided in Section 50186, the committee shall approve an allocation for qualified mortgage bonds specified in a notice filed by a local agency pursuant to subdivision (a) and which conforms to the requirements and limitations of this chapter, provided the allocation, when combined with previously approved allocations, would not exceed the respective portions of the state ceiling reserved for entitlement allocations and supplementary allocations during that calendar year. If the committee has not acted within 30 days after the date that the local agency files a notice with the committee pursuant to subdivision (a), the proposed allocation shall be deemed approved by the committee.

(c) Within 30 days of receiving a notice from the first local agency filing pursuant to subdivision (a), and every 30 days thereafter if requests for allocation are pending before the committee, the committee shall determine whether the combined and cumulative requests for allocations as of that date would, if approved, exceed the respective portions of the state ceiling reserved for entitlement and supplementary allocations to local agencies pursuant to Section 50189, or if after April 1, would exceed the local bond limit. If the sum of the requests would exceed the respective portions of the state ceiling reserved for entitlement and supplementary allocations on that date, or if after April 1, would exceed the local bond limit, the committee shall reduce each request pro rata based on the amount of each request so as not to exceed either the local bond limit or the respective portions of the state ceiling reserved for entitlement and supplementary allocations during the calendar year, except that no request for an entitlement allocation shall be reduced below twenty million dollars ($20,000,000).

(d) Unless sold, an allocation of qualified mortgage bonds to a local agency shall expire 90 days after the allocation was granted by the committee. However, the committee may, upon application of

the local agency in advance of the expiration date, extend the expiration date on the allocation for an additional period not to exceed 30 days, except as provided in subdivision (f), if the committee determines that the issuer demonstrates prior to the expiration date:

(1) The issuer had prepared the text of, and was prepared to market the bonds by distribution of, an official statement or other marketing materials.

(2) Interest rates or other terms when available in the financial markets were unacceptable to the issuer because, in the judgement of the issuer, such rates or terms made the financing of the mortgages to be provided by the issuance of the bonds infeasible for the homes to be financed.

Any allocation which has expired shall be available for reallocation to local agencies pursuant to Section 50189. If the amount of qualified mortgage bonds reported sold by a local agency pursuant to subdivision (a) of this section is less than the amount allocated to the local agency, the amount allocated but not sold shall be available as of the date of the local agency's report pursuant to subdivision (a) for reallocation to local agencies pursuant to Section 50189.

(e) The committee may disapprove or reduce the amount of an allocation requested by a local agency which did not use all or a substantial portion of an allocation granted after March 1, 1982.

(f) The committee may, in its discretion, grant further extentions of the expiration date of an allocation if, in its judgment, the issuer has been delayed in issuing bonds for reasons beyond its control. Such reasons may include, but are not limited to, the pendency of litigation which precludes the issuance of bonds, and the pendency of designations of areas of chronic economic distress as defined in the federal act.

(g) The committee may designate an appropriate individual who shall receive entitlement or supplementary allocation notices on behalf of the committee.

Any allocation which has expired shall be available for reallocation to local agencies pursuant to Section 50189. If the amount of qualified mortgage bonds reported sold by a local agency pursuant to subdivision (a) of this section is less than the amount allocated to the local agency, the amount allocated but not sold shall be available as of the date of the local agency's report pursuant to subdivision (a) for reallocation to local agencies pursuant to Section 50189.

SEC. 7.5. Article 4 (commencing with Section 50197) is added to Chapter 3.5 of Part 1 of Division 31 of the Health and Safety Code, to read:

Article 4. Mortgage Credit Certificates

50197. "Issuer," for purposes of this article, means a local agency and includes a redevelopment agency, housing authority, or other local entity, authorized by state law to issue qualified mortgage

bonds, to which a local agency has assigned an allocation under this chapter.

50197.1. An issuer may establish a mortgage credit certificate program pursuant to this article.

50197.2. (a) An issuer shall notify the committee if the issuer elects to exchange all or part of the issuer's authority to issue qualified mortgage bonds for authority to issue mortgage credit certificates. The notification shall include a statement which does both of the following:

(1) Specifies the amount of the qualified mortgage bond authority that the issuer will not be issuing in order to issue mortgage credit certificates.

(2) Explains how the issuer shall assure that the dollar amount of mortgage credit certificate authority will not be exceeded.

(b) An issuer may revoke the election if the issuer notifies the committee that it cannot successfully carry out that exchange.

50197.3. A mortgage credit certificate may be issued under a mortgage credit certificate program by a local agency pursuant to this chapter and the federal act, as defined by paragraph (2) of subdivision (f) of Section 50176.

50197.7. If an issuer elects to exchange all or part of a supplementary allocation of qualified mortgage bonds for authority to issue mortgage credit certificates, the issuance of those mortgage credit certificates shall be subject to the restriction imposed by subdivision (b) of Section 50189.

50198. The requirement that public notice be given that mortgage credit certificates will be issued, prescribed by Section 25(e)(5) of Title 25 of the United States Code, may be satisfied by the issuer or its lenders advertising their issuance at least 90 days prior to the issuance of any mortgage credit certificate. If an issuer is required to file an application with the committee for a qualified mortgage bond allocation, it may commence advertising for the issuance of a mortgage credit certificate on the day it files its application with the committee.

50198.5. An issuer shall develop and maintain a list of lenders that have entered into an agreement with the issuer who will make loans to qualified holders of mortgage credit certificates, as provided by the federal act, as defined by paragraph (2) of subdivision (g) of Section 50176.

50199. Notwithstanding any other provision of law, after a list of lenders has been completed by an issuer, after the qualified mortgage bond allocation has been approved by the committee, and after the issuer has made the election to exchange all or part of the issuer's authority to issue qualified mortgage bonds for authority to issue mortgage credit certificates, the issuer and its lenders shall have 90 days after the allocation is granted by the committee to establish, and file with the committee, a mortgage credit certificate program.

50199.5. Any issuer which establishes a mortgage credit certificate program may charge a fee which is reasonably sufficient

to cover the costs of administering that program.

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 authorize state and local agencies to issue mortgage credit certificates as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 1400

An act to add Section 25208.15 to the Health and Safety Code, relating to hazardous waste.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 25208.15 is added to the Health and Safety Code, to read:

25208.15. (a) Notwithstanding any other provision of this article, an in-ground sump, used by a pest control operator licensed under Section 11705 of the Food and Agricultural Code, or used by a local or state agency, which meets all of the specifications listed in subdivision (b) and complies with subdivision (c), is exempt from the requirements of subdivision (a) of Section 25208.4, Section 25208.5, and Section 25208.8 if, prior to installation, the plan for the in-ground system is submitted to the regional board and the regional board determines that the system complies with this section.

(b) For purposes of this article, an "in-ground sump" shall have the following specifications:

(1) It consists of two containment units. The primary container is constructed primarily of nonearthen materials, including, but not limited to, stainless steel or plastic, and is designed to prevent the migration of any constituents into the secondary container. The secondary container is constructed of impermeable materials and is designed to prevent the migration of any hazardous waste constituents into the ground surrounding the secondary container. The secondary container shall also be designed to prevent the intrusion of groundwater, rainwater, or any other surface runoff into the space beneath the primary container.

(2) It is designed to allow visual inspection of the space underlying the primary container each operating day.

(3) The dimensions of the in-ground sump do not exceed six feet in depth, nor 75 square feet of surface area for each hazardous waste containment system.

(4) The in-ground sump is used for pest control operations.

(c) In order to qualify for the exemption, an in-ground sump shall be pumped empty of free liquid at least twice each operating day and these free liquids shall not be returned to the sump. The sump shall be visually inspected at least once each operating day. A record of all visual inspections shall be maintained by the pest control operator or local or state agency and shall be audited by the regional board at least annually.

(d) If at any time the regional board determines that the primary container of an in-ground sump is leaking, the regional board shall immediately order the discharge to cease and shall either order installation of a new primary container as provided in paragraph (1) of subdivision (b) or revoke the exemption authorized by this section. Nothing in this section shall be construed to limit the regional board's authority to take any action necessary to determine whether an in-ground sump poses any threat to the waters of the state.

CHAPTER 1401

An act to amend Section 1808.7 of, and to add Section 41501 to, the Vehicle Code, relating to driving offenses.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 1808.7 of the Vehicle Code is amended to read:

1808.7. The record of the department relating to the first proceeding and dismissal under Section 1803.5 in any 12-month period for participation by a person in a licensed school for traffic violators, a licensed driving school, or any other court-approved program of driving instruction, is confidential, shall not be disclosed to any person, except a court, and shall be used only for statistical purposes by the department.

SEC. 2. Section 41501 is added to the Vehicle Code, to read:

41501. The court may order a continuance of a proceeding against a person, who receives a notice to appear in court for a violation of any statute relating to the safe operation of a vehicle, in consideration for attendance at a licensed school for traffic violators, a licensed driving school, or any other court-approved program of driving instruction, and, after that attendance, the court may dismiss the complaint under the following conditions:

(a) If the offense is alleged to have been committed within 12 months of another offense which was dismissed under this section, the court may order the continuance and, after the attendance, dismiss the complaint. The court may order attendance at a licensed

school for traffic violators which offers a program of at least 12 hours of instruction.

(b) If the offense is not alleged to have occurred within 12 months of another offense which was dismissed under this section, the court may order the continuance and, after the attendance, dismiss the complaint if the attendance is at any of the types of schools or programs that the court directed pursuant to Section 42005 at the time of ordering the continuance.

CHAPTER 1402

An act to add Section 1596.893 to the Health and Safety Code, relating to child day care facilities.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 1596.893 is added to the Health and Safety Code, to read:

1596.893. (a) When the licensing agency has reason to believe that an unlicensed day care facility is operating or that a day care facility is in violation of the California Child Day Care Facilities Act or of the rules and regulations promulgated under the California Child Day Care Facilities Act, the agency may issue a citation to the facility. Each citation shall be in writing and shall describe with particularity the nature of the violation and the action proposed by the licensing agency. If the citation has been developed pursuant to an evaluator visit, the citation shall include the plan developed by the operator and evaluator to correct each deficiency. The citation shall be served upon the facility operator personally or through registered mail.

(b) The licensing agency shall give due consideration to the appropriateness of the penalty to the alleged violation, considering each of the following factors:

(1) The gravity of the violation.

(2) The history of previous violations.

(3) The possibility of a threat to the health or safety of any child in the facility.

(4) The number of children affected by the violation.

(5) The availability of equipment or personnel necessary to correct the violation, if appropriate.

(c) If the facility desires to contest a citation or the proposed assessment of a civil penalty, the facility shall, within 10 business days after service of the citation, notify the licensing agency in writing of a request for an informal conference. The licensing agency shall hold, within 30 days from the receipt of the request, an informal

conference. At the conclusion of the conference, the licensing agency may affirm, modify, or dismiss the citation or proposed penalty. The agency shall state in writing the reasons for any action taken in the informal conference.

(d) If the penalty contained in the citation is affirmed in the informal conference, the licensing agency shall pursue enforcement of the penalty, and the facility may pursue any appeal mechanisms otherwise contained in law.

CHAPTER 1403

An act to amend Sections 24, 7230, 7370, 8371, 8372, 8373, 12159, 12161, and 12162 of, to add Sections 68, 7364, and 12002.9 and Division 6.5 (commencing with Section 10000) to, and to repeal Section 7231 of, the Fish and Game Code, relating to fish and game, and making an appropriation therefor.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 24 of the Fish and Game Code is amended to read:

24. "Buy" includes an offer to buy, purchase, barter, exchange, or trade.

SEC. 2. Section 68 is added to the Fish and Game Code, to read:

68. "Purchase" means "buy" as defined in Section 24.

SEC. 3. Section 7230 of the Fish and Game Code is amended to read:

7230. (a) Subject to Section 7121, fish lawfully taken under a sport fishing license may be canned or smoked by a fish cannery or processor as a service for a licensed sport fisherman.

(b) Any cannery or packing plant in which fish that have been taken under a sport fishing license are canned, shall emboss or imprint on the top of each can the words "not to be sold" in letters of such size as to be clearly legible, and the embossment or imprint shall remain affixed to the can.

(c) Any cannery or packing plant in which fish that have been taken under a sport fishing license are smoked shall permanently imprint on each package the words "not to be sold" in letters of such size as to be clearly legible, and the imprint shall remain visible on the package.

(d) Fish canned or smoked under this section shall not be sold, purchased, or offered for sale.

SEC. 4. Section 7231 of the Fish and Game Code is repealed.

SEC. 5. Section 7364 is added to the Fish and Game Code, to read:

7364. Except as provided in Section 7230 or 8371, it is unlawful to

buy or sell striped bass or parts thereof, or to possess striped bass or parts thereof, in any place where fish are bought, possessed for sale, or sold, or where food is offered for sale, or in any truck or other conveyance operated by or for a place so selling or possessing fish, except that striped bass taken under a sport fishing license or a sport ocean fishing license may be possessed in a restaurant or other commercial eating establishment when the striped bass are brought to that establishment by the licensee for the purpose of preparing them for immediate consumption by the licensee or the licensee's guests.

SEC. 6. Section 7370 of the Fish and Game Code is amended to read:

7370. Except as provided in Section 7230 or 8371, it is unlawful to buy or sell, or to offer to buy or sell, a whole sturgeon, or any part thereof, including eggs, or to possess sturgeon, or parts thereof, including eggs, in any place where fish are bought, possessed for sale, or sold, or where food is offered for sale, or in any truck or other conveyance operated by or for a place so selling or possessing fish.

SEC. 7. Section 8371 of the Fish and Game Code is amended to read:

8371. Notwithstanding Section 7364 or 7370, striped bass or sturgeon, or parts thereof, may be sold under the following conditions:

(a) If the striped bass or sturgeon, or parts thereof, is taken or possessed by, and is the cultured progeny of, an aquaculturist who is registered under Section 15101, that striped bass or sturgeon may be sold or purchased subject to regulations of the commission.

(b) If the striped bass or sturgeon, or parts thereof, is taken legally in another state which permits the sale of that fish and if the fish is lawfully imported under Section 2363, the striped bass or sturgeon, or parts thereof, may be possessed, sold, or purchased.

SEC. 8. Section 8372 of the Fish and Game Code is amended to read:

8372. No kelp bass, sand bass, or spotted bass, all of the genus Paralabrax, may be sold or purchased, or possessed in any place where fish are purchased, possessed for sale, or sold, or where food is offered for sale, or in any truck or other conveyance operated by or for a place so selling or possessing fish; except that those fish may be imported into this state pursuant to Article 1 (commencing with Section 2345) of Chapter 4 of Division 3, and may be sold under such regulations as the commission may adopt. It is unlawful to take, possess, or sell any fish less than 10½ inches in length of the species specified in this section.

SEC. 9. Section 8373 of the Fish and Game Code is amended to read:

8373. No yellowfin croaker, spotfin croaker, or California corbina may be sold or purchased, or possessed in any place where fish are purchased, possessed for sale, or sold, or where food is offered for sale, or in any truck or other conveyance operated by or for a place

so selling or possessing fish.

SEC. 10. Division 6.5 (commencing with Section 10000) is added to the Fish and Game Code, to read:

DIVISION 6.5. STURGEON EGG PROCESSORS

10000. (a) Every person engaged in the business of canning, curing, preserving, packing, or otherwise processing, or dealing at wholesale in, the eggs of sturgeon for human consumption shall obtain a sturgeon egg processing license from the department for that purpose. The license required by this division is in addition to any other license, permit, or other authorization required by this code or by any other provision of law.

(b) Possession of a sturgeon egg processing license issued pursuant to this division authorizes the licensee to can, cure, preserve, pack, or otherwise process, or deal at wholesale in, the eggs of sturgeon if, and only if, the eggs are lawfully taken or lawfully possessed pursuant to Section 7230 or 8371.

10001. A sturgeon egg processing license shall be issued and delivered upon application and the payment of a base fee of one hundred dollars ($100), as adjusted under Section 713, to the department. The license shall be valid for a period of 12 months from the date of issuance.

10002. Every person licensed pursuant to this division shall make a true and legible record of each transaction involving the eggs of sturgeon. This documentation shall show all of the following:

(a) The weight of the eggs received.

(b) The name and address of the person from whom the eggs were received, and, if different, the name and address of the person who artificially propagated the sturgeon from which the eggs were obtained or the name and address of the person from whom the sturgeon were received from which the eggs were obtained.

(c) The date of receipt.

(d) If imported into this state, the place where the sturgeon were taken.

(e) Whether the eggs are to be processed by the recipient or sold by him or her to another for processing, and, if the eggs are to be sold for processing by another, the name and address of that person.

(f) Such other information as the department may require and specify on the form.

10003. The documentation required by Section 10002 shall be kept by the person or business holding the sturgeon egg processing license for a period of two years from the date of receipt of eggs and shall be available for inspection during normal business hours by the department.

10004. Any information received or requested by the department shall be confidential, and the records shall not be public records, except that the information contained in the records may be compiled and published as summaries in a manner that will not

disclose the individual record or business of any person.

10005. (a) Any person convicted of a violation of this division or a violation of any other provision of this code or any regulation adopted pursuant thereto relating to sturgeon shall be prohibited from engaging in the business of canning, curing, preserving, packing, or otherwise processing, or dealing at wholesale or retail in the eggs of sturgeon in this state for one year from the date of the conviction.

(b) Any person convicted of a second or subsequent violation of this division or a violation of any other provision of this code or any regulation adopted pursuant thereto relating to sturgeon within five years of another offense resulting in a conviction of a violation of any of those provisions is prohibited from engaging in any activity for which a sturgeon egg processing license is required for five years from the date of the last conviction.

(c) The commission shall revoke any license issued pursuant to this division to the person who is prohibited from engaging in that business under this section. No sturgeon egg processing license revoked pursuant to this section shall be issued, reissued, or reinstated during the period of prohibition prescribed in this section.

(d) It is unlawful for any person to obtain, or attempt to obtain, a sturgeon egg processing license pursuant to this division during the period of prohibition prescribed in this section.

SEC. 11. Section 12002.9 is added to the Fish and Game Code, to read:

12002.9. In addition to any other penalty prescribed in this code, the license issued pursuant to Section 8040 to any person who is convicted of a violation of Section 7121, 7364, 7370, 8372, or 8373 shall be suspended for not less than seven days nor more than 30 days. Each day any fish of the species designated in any of those sections, or any part thereof, is unlawfully possessed and each unlawful transaction involving the purchase or sale of any fish of those species, or any part thereof, by a wholesale fish dealer is a separate violation.

SEC. 12. Section 12159 of the Fish and Game Code is amended to read:

12159. All birds, mammals, fish, reptiles, or amphibia, or any part thereof, which have been taken, possessed, sold, imported, or transported contrary to any of the laws of this state shall be seized by the department, and, in accordance with the commission's regulations, notice of seizure shall be given to the person who had possession of the birds, mammals, fish, reptiles, or amphibia, or any part thereof, at the time of the seizure if that person is known.

SEC. 13. Section 12161 of the Fish and Game Code is amended to read:

12161. The judge before whom any person is tried for taking, possessing, selling, importing, or transporting birds, mammals, fish, reptiles, or amphibia or parts thereof contrary to the laws of this state shall upon the conviction of the accused make an order forfeiting and disposing of the birds, mammals, fish, reptiles, or amphibia or parts

thereof in accordance with the provisions of Section 12160. However, if the birds, mammals, fish, reptiles, or amphibia or parts thereof may not be sold lawfully or have a current market value of less than one hundred dollars ($100), the judge may at his discretion order that they be donated to a state, county, city, or any charitable institution, or that they be destroyed.

SEC. 14. Section 12162 of the Fish and Game Code is amended to read:

12162. Any seizure of any birds, mammals, fish, reptiles, or amphibia or parts thereof made under circumstances wherein it cannot be determined who took, possessed, sold, imported, or transported them contrary to law may be sold or donated to a state, county, city, city and county, or any charitable institution.

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 1404

An act to amend Sections 12996 and 12998 of, and to add Section 12648 to, the Food and Agricultural Code, relating to pesticides, and declaring the urgency thereof, to take effect immediately.

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

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

SECTION 1. The Legislature finds and determines all of the following:

(a) The proper, safe, and legal use of pesticides are essential for the production of food and fiber and for the protection of the public health and safety.

(b) The illegal use of pesticides on crops, commodities, or sites not included in the pesticide's registered labeling can pose a serious threat to the environment and to the public health and can cause serious market disruption because of loss of consumer confidence.

(c) When a crop or commodity has received an illegal pesticide application, laboratory analysis cannot always guarantee that every individual fruit or vegetable within the crop or commodity is free of illegal pesticide residues, and to require the Department of Food and Agriculture to sample and test the crop or commodity presents burdensome and costly procedures and severely impacts the department's ability to conduct its pesticide residue monitoring and enforcement program.

(d) Because harvest of a crop may occur very rapidly after the discovery of an illegal pesticide application, and once harvested the individual crop is difficult to trace in the wholesale and retail markets, immediate action may be necessary to insure that produce with illegal residues does not reach the marketplace.

(e) Illegal pesticide applications are often committed to gain an unfair advantage in the market, and it is unjust that those who intentionally use pesticides illegally should profit from this illegal act.

(f) An adequate remedy of law exists for contesting the declaration of a crop or commodity to be a public nuisance.

(g) It is necessary, because of the foregoing, to provide the Director of Food and Agriculture the authority to declare abatement of crops or commodities which have received illegal pesticide applications as a public nuisance.

SEC. 2. Section 12648 is added to the Food and Agricultural Code, to read:

12648. Notwithstanding any other provision of this code, if the director finds evidence that a crop, commodity, or site has been treated with an economic poison not registered pursuant to Chapter 2 (commencing with Section 12751) for use on the crop, commodity, or site and the treatment has resulted in, or could reasonably result in, the creation of a hazard to human health or an unfair business advantage, the crop or commodity may be declared by the director to be a public nuisance and may be seized and held to prevent harvest and sale. The director shall hold the crop or commodity for 30 days, and if no action has been filed to contest the seizure, the director may order the crop or commodity be destroyed.

SEC. 3. Section 12996 of the Food and Agricultural Code is amended to read:

12996. (a) Every person who violates any provision of this division relating to pesticides, or any regulation issued pursuant to a provision of this division relating to pesticides, is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000), or by imprisonment of not more than six months, or by both fine and imprisonment. Upon a second or subsequent conviction of the same provision of this division relating to pesticides, a person shall be punished by a fine of not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000), or by imprisonment of not more than six months or by both fine and imprisonment. Each violation constitutes a separate offense.

(b) Notwithstanding the penalties prescribed in subdivision (a), if the offense involves an intentional violation which created or reasonably could have created a hazard to human health or the environment, the convicted person shall be punished by imprisonment in the county jail not exceeding one year or in the state prison or by fine of not less than five thousand dollars ($5,000) nor more than fifty thousand dollars ($50,000), or by both the fine and imprisonment.

SEC. 4. Section 12998 of the Food and Agricultural Code is amended to read:

12998. Any person who violates any provision of this division relating to pesticides, or any regulation issued pursuant to a provision of this division relating to pesticides, shall be liable civilly in an amount not exceeding ten thousand dollars ($10,000) for each violation. Any person who commits a second or subsequent violation that is the same as a prior violation or similar to a prior violation or whose intentional violation resulted or reasonably could have resulted in the creation of a hazard to human health or the environment or in the disruption of the market of the crop or commodity involved, shall be liable civilly in an amount not to exceed twenty-five thousand dollars ($25,000). Any money recovered under this section shall be paid into the Department of Food and Agriculture Fund for use by the department in administering the provisions of this division, and Division 6 (commencing with Section 11401).

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 public health and safety by increasing sanctions against pesticide use violations at the earliest opportunity, it is necessary that this act take effect immediately.

CHAPTER 1405

An act to add and repeal Section 51257 of the Government Code, relating to agricultural land.

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

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

SECTION 1. Section 51257 is added to the Government Code, to read:

51257. (a) Notwithstanding any other provision of this chapter, a city, upon petition by a landowner, may enter into an agreement amending the boundaries of an agricultural preserve to remove land presently subject to the contract and to include land not presently subject to the contract, provided the city, after a noticed public

hearing, makes all of the following findings:

(1) All of the land is located within the coastal zone and the boundary adjustment has been approved by the California Coastal Commission. The California Coastal Commission shall approve the boundary adjustment only after a noticed public hearing and only if it finds both of the following:

(A) The boundary adjustment is consistent with the purposes of the California Coastal Act of 1976.

(B) The boundary adjustment is consistent with a plan for the long-term preservation of agriculture approved by the commission as consistent with the certified local coastal program in effect as of January 1, 1985. Any amendments to the local coastal program subsequent to this date may be considered for purposes of a boundary adjustment if each of the following conditions are met:

(i) The amendments relate to the acreage to be developed under the plan.

(ii) The amendments to the local coastal program will not result in the reduction of the amount of acreage under contract as of January 1, 1985.

(2) All of the land is located in an incorporated city within a county with a population in excess of 1,500,000.

(3) At least 50 percent of the land presently subject to the contract shall remain subject to the contract.

(4) The land to be added to the contract is equal to or larger in size than the land to be removed from the contract.

(5) The land to be added to the contract is equally or more suitable for agricultural use than the land to be removed from the contract. In determining the suitability of the land for agricultural use, the city shall consider the value of the crops which can be grown on the land, the soil quality of the land, the climate or microclimate in which the land is located, the grade of the land, the drainage of the land, and any other factor the city council deems to have a bearing upon the suitability of the land for agricultural use.

(6) The fair market value of the land to be added to the contract is equal to or greater than the fair market value of the land to be removed from the contract as of the date of the proposed agreement. For purposes of determining fair market value under this section, both the land to be added and the land to be removed shall be valued as though they were free of the contractual restriction.

(7) The contract affected by the boundary adjustment shall have been in effect for at least 10 years prior to the date of the proposed agreement.

(8) The boundary adjustment is consistent with the applicable provisions of the current general plan, and the general plan designation of the land being removed from the contract has been changed by amendment to, or adoption of, a general plan after the land became subject to the contract.

(9) The land to be added to the contract is in the same county, and within a contiguous body of land either under one contract or owned

by the same family as the land to be removed from the contract.

(10) The proposed agreement is consistent with the findings required by Section 51282, except that the city shall not be required to find that the boundary adjustment is for land on which a notice of nonrenewal has been served.

(b) Land which has been added to a preserve contract under the provisions of this section shall not thereafter be removed from the contract under the provisions of this section.

(c) A landowner may submit a petition to the city requesting an agreement pursuant to this section. The city may impose a fee upon the landowner in order to defray its administrative costs. The landowner shall transmit a copy of the petition to the Secretary of the Resources Agency and the Executive Director of the California Coastal Commission. The petition shall be accompanied by a proposal for an alternative use of the land together with any other information the city may require to make the findings required pursuant to this section. The agreement shall provide for an initial term at least as long as the term of the existing contract but not less than 15 years. The agreement shall further provide that for a period of five years after the effective date of the agreement, the applicant has waived the right to cancel the agreement. The city, before making the findings specified in this section, shall hold at least one public hearing for which notice shall be given in accordance with Section 51232. Upon making these findings, the city may approve the agreement, which shall be recorded in the manner provided for certificates of tentative cancellation specified in Section 51283.4. Amendment of any contract shall not occur until all conditions and contingencies specified in the agreement shall have been satisfied.

(d) It is the intent of this section to provide flexibility in the development of a local coastal program with provision for long-term preservation of agricultural lands independent of this chapter and in accordance with the provisions of the California Coastal Act of 1976 without diminishing the quality or quantity of land subject to agricultural preserve contracts and without imposing cancellation fees upon the landowners concerned.

(e) The Secretary of the Resources Agency shall report to the Legislature no later than January 1, 1988, on the statewide effect of this section.

(f) 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.

CHAPTER 1406

An act to amend Section 1203.066 of the Penal Code, relating to crimes.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 1203.066 of the Penal Code is amended to read:

1203.066. (a) Notwithstanding Section 1203, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, nor shall a finding bringing the defendant within the provisions of this section be stricken pursuant to Section 1385 for, any of the following persons:

(1) A person convicted of violating Section 288 when the act is committed by the use of force, violence, duress, menace, or threat of bodily harm.

(2) A person who caused bodily injury on the child victim in committing a violation of Section 288.

(3) A person convicted of a violation of Section 288 and who was a stranger to the child victim or made friends with the child victim for the purpose of committing an act in violation of Section 288, unless the defendant honestly and reasonably believed the victim was 14 years old or older.

(4) A person who used a weapon during the commission of a violation of Section 288.

(5) A person convicted of committing a violation of Section 288 and who has had a prior conviction of Section 261, 264.1, 267, 285, 288, or 289, of committing sodomy or oral copulation in violation of Section 286 or 288a by force, violence, duress, menace, or threat of great bodily harm, of assaulting another with intent to commit a crime specified in this paragraph in violation of Section 220, or a violation of Section 266.

(6) A person convicted of kidnapping the child victim in violation of either Section 207 or 209 and who kidnapped the victim for the purpose of committing a violation of Section 288.

(7) A person who is convicted of committing a violation of Section 288 on more than one victim at the same time or in the same course of conduct.

(8) A person who in violating Section 288 has substantial sexual conduct with a victim under the age of 11 years.

(9) A person who occupies a position of special trust and commits an act of substantial sexual conduct. "Position of special trust" means that position occupied by a person in a position of authority who by reason of that position is able to exercise undue influence over the victim. Position of authority includes, but is not limited to, the

position occupied by a natural parent, adoptive parent, stepparent, foster parent, relative, household member, adult youth leader, recreational director who is an adult, adult athletic manager, adult coach, teacher, counselor, religious leader, doctor, or employer.

(10) A person who, in committing a violation of Section 288, used obscene matter, as defined in Section 311, or matter (as defined in Section 311) depicting sexual conduct, as defined in Section 311.3.

(b) "Substantial sexual conduct" means penetration of the vagina or rectum by the penis of the offender or by any foreign object, oral copulation, or masturbation of either the victim or the offender.

(c) Paragraphs (7), (8), (9), and (10) of subdivision (a) shall not apply when the court makes all of the following findings:

(1) The defendant is the victim's natural parent, adoptive parent, stepparent, relative, or is a member of the victim's household who has lived in the household.

(2) Imprisonment of the defendant is not in the best interest of the child.

(3) Rehabilitation of the defendant is feasible in a recognized treatment program designed to deal with child molestation, and if the defendant is to remain in the household, a program that is specifically designed to deal with molestation within the family.

(4) There is no threat of physical harm to the child victim if there is no imprisonment. The court upon making its findings pursuant to this subdivision is not precluded from sentencing the defendant to jail or prison, but retains the discretion not to. The court shall state its reasons on the record for whatever sentence it imposes on the defendant.

The court shall order the psychiatrist or psychologist appointed pursuant to Section 288.1 to include a consideration of the factors specified in paragraphs (2), (3), and (4) in making his or her report to the court.

(d) The existence of any fact which would make a person ineligible for probation under subdivision (a) shall be alleged in the accusatory pleading, 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. 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 1407

An act to amend Sections 51010.5, 51012.3, 51013.5, 51014, 51015, and 51018 of the Government Code, relating to pipelines.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 51010.5 of the Government Code is amended to read:

51010.5. As used in this chapter, the following definitions apply:

(a) "Pipeline" includes every intrastate pipeline, including a common carrier pipeline, used for the transportation of hazardous liquid substances or highly volatile liquid substances, but does not include any of the following:

(1) An interstate pipeline subject to Part 195 of Title 49 of the Code of Federal Regulations.

(2) Transportation of a hazardous liquid substance in a gaseous state.

(3) Transportation of a hazardous liquid substance by gravity.

(4) Transportation of a hazardous liquid substance through pipelines that operate at a stress level of 20 percent or less of the specified minimum yield strength of the line pipe.

(5) Transportation of a hazardous liquid substance in those parts of an onshore pipeline system that are located in rural areas that transport crude oil from a treating facility and/or production storage facility to a tank farm, pipeline terminal, or transmission line.

(6) Transportation of a hazardous liquid substance in offshore pipelines which are located upstream from the outlet flange of each facility on the Outer Continental Shelf where hydrocarbons are produced or where produced hydrocarbons are first separated, dehydrated, or otherwise processed, whichever facility is farther downstream.

(7) Transportation of a hazardous liquid substance through onshore production (including flow lines), refining, or manufacturing facilities or storage or in-plant piping systems associated with those facilities.

(8) Transportation of a hazardous liquid substance by vessel, aircraft, tank truck, tank car, or other vehicle or terminal facilities used exclusively to transfer hazardous liquid substances between those modes of transportation.

(b) "Flow line" means a pipeline which transports hazardous liquid substances from the well head to a treating facility and/or production storage facility.

(c) "Hydrostatic testing" means the application of internal pressure above the normal or maximum operating pressure to a segment of pipeline, under no-flow conditions for a fixed period of

time, utilizing a liquid test medium.

(d) "Local agency" means any city, county, or fire protection district.

(e) "Rural area" means those locations which lie outside the limits of any incorporated or unincorporated city, town, village, or any other designated residential or commercial area, such as a subdivision, a business, a shopping center, or a community development.

SEC. 2. Section 51012.3 of the Government Code is amended to read:

51012.3. (a) The operator of a pipeline shall conform the pipeline to the federal regulations in Subparts A, B, and F of Part 195 of Title 49 of the Code of Federal Regulations, in accordance with the following schedule:

(1) On or before July 1, 1984, the pipeline operator shall meet the requirements of subsection (c) of Section 195.401 of Part 195 of Title 49 of the Code of Federal Regulations, but those requirements shall only apply to a pipeline constructed after January 1, 1984.

(2) On or before January 1, 1985, the pipeline operator shall meet the requirements of Section 195.402 of Part 195 of Title 49 of the Code of Federal Regulations. Pipeline operators of intrastate pipelines subject to federal regulation under Amendment 195-33 to Part 195 of Title 49 of the Code of Federal Regulations issued April 17, 1985, (effective date, October 21, 1985), shall meet the requirements of Section 195.402 of Part 195 of Title 49 of the Code of Federal Regulations on or before April 23, 1987.

(3) The pipeline operator shall meet the cathodic protection requirements of subdivision (a) of Section 195.414 of Part 195 of Title 49 of the Code of Federal Regulations as follows:

(A) On or before October 21, 1986, 25 percent of the required cathodic protection shall be installed.

(B) On or before October 21, 1987, 50 percent of the required cathodic protection shall be installed.

(C) On or before October 19, 1988, all required cathodic protection shall be installed.

(4) Operators of intrastate pipelines subject to federal regulations under Amendment 195-33 to Part 195 of Title 49 of the Code of Federal Regulations issued April 17, 1985, (effective date, October 21, 1985), shall meet the requirements of Section 195.414 (a), (b), and (c).

(b) For purposes of applying the federal regulations of Part 195 of Title 49 of the Code of Federal Regulations, the word "Secretary," when it appears in the federal regulations, means the "State Fire Marshal."

SEC. 3. Section 51013.5 of the Government Code is amended to read:

51013.5. (a) Newly constructed pipelines, existing pipelines that have been relocated or replaced, that part of a pipeline system that has been relocated or replaced, and pipelines constructed before

January 1, 1983, that transport hazardous liquid substances or highly volatile liquid substances, shall be tested in accordance with Subpart E (commencing with Section 195.300) of Part 195 of Title 49 of the Code of Federal Regulations.

(b) All pipelines not provided with properly sized automatic pressure relief devices or properly designed pressure limiting devices shall be hydrostatically tested annually.

(c) All pipelines over 10 years of age and not provided with effective cathodic protection shall be hydrostatically tested every three years.

(d) All pipelines over 10 years of age and provided with effective cathodic protection shall be hydrostatically tested every five years.

(e) Pipelines without evidence of compliance with the hydrostatic test requirements of Subpart E (commencing with Section 195.300) of Part 195 of Title 49 of the Code of Federal Regulations, and the pipelines specified in subdivisions (c) and (d) which have not been hydrostatically tested at least once since January 1, 1982, shall be brought into compliance by January 1, 1985. Intrastate pipelines subject to federal regulation under Amendment 195-33 to Part 195 of Title 49 of the Code of Federal Regulations issued April 17, 1985, (effective date, October 21, 1985), which have not been hydrostatically tested at least once since January 1, 1985, shall be brought into compliance by January 1, 1988.

(f) In addition to the above requirements, the State Fire Marshal may require any pipeline subject to this chapter to be subjected to a pressure test, at any time, in the interest of public safety.

(g) Other test methods may be approved by the State Fire Marshal on an individual basis.

SEC. 4. Section 51014 of the Government Code is amended to read:

51014. (a) The pressure tests required by subdivisions (b), (c), and (d) of Section 51013.5 shall be conducted in accordance with Subpart E (commencing with Section 195.300) of Part 195 of Title 49 of the Code of Federal Regulations, except that an additional four-hour leak test, as specified in subsection (c) of Section 195.302 of Part 195 of Title 49 of the Code of Federal Regulations, shall not be required under subdivision (b), (c), or (d) of Section 51013.5. The State Fire Marshal may authorize the use of liquid petroleum having a flashpoint over 140 degrees Fahrenheit or 60 degrees Centigrade as the test medium. Pressure tests performed under subdivisions (b), (c), and (d) of Section 51013.5 shall not show an hourly change for each section of the pipeline under test at the time in excess of either 10 gallons or the sum of one gallon and an amount computed at a rate in gallons per mile equivalent to one-tenth of the nominal internal diameter of the pipe in inches.

(b) Test pressure shall be at least 125 percent of the actual pipeline operating pressure.

SEC. 5. Section 51015 of the Government Code is amended to read:

51015. (a) Every pipeline operator shall provide the fire department having jurisdiction a map or suitable diagram showing the location of the pipeline. Every fire department shall provide to every pipeline operator the fire department's plans and procedures for extinguishing fires involving hazardous or highly volatile liquids in open areas, with specific reference to fire-extinguishing foam compounds.

(b) A pipeline operator shall make available to the State Fire Marshal, or any officers, employees, or agents authorized by the State Fire Marshal, upon presentation of appropriate credentials, any records, maps, and written procedures that are required, by this chapter, to be kept by the pipeline operator and which concern accident reporting, design, construction, testing, or operation and maintenance.

The State Fire Marshal, or any officer, employee, or agent authorized by the State Fire Marshal, may enter, inspect, and examine, at reasonable times and in a reasonable manner, the records and properties of any pipeline operators that are required to be inspected and examined to determine whether the pipeline operator is in compliance with this chapter.

SEC. 6. Section 51018 of the Government Code is amended to read:

51018. Every break, explosion, or fire involving a pipeline, including a pipeline otherwise exempted by subdivision (a) of Section 51010.5, and including a pipeline undergoing testing, shall be immediately reported to the State Fire Marshal and the local agency or fire department having jurisdiction.

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 and because the only other 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 1408

An act to amend Sections 8, 10, 11, and 13 of the County Water Authority Act (Chapter 545 of the Statutes of 1943), relating to county water authorities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 8 of the County Water Authority Act (Chapter 545 of the Statutes of 1943) is amended to read:

Sec. 8. (a) An authority may incur indebtedness by contract other than by voting bonds or expenditure of bond proceeds up to a total amount equal to one-tenth of 1 percent of the assessed valuation, as defined in Section 135 of the Revenue and Taxation Code, or as otherwise hereafter defined by an act of the Legislature, of property taxable for authority purposes by a vote of three-fourths or more of the aggregate number of votes of all members of the board of directors. Any proposal to incur an indebtedness in excess of an amount equal to one-tenth of 1 percent of the assessed valuation, as defined in Section 135 of the Revenue and Taxation Code, or as otherwise hereafter defined by an act of the Legislature, of property taxable for authority purposes by contract other than by voting bonds or expenditure of bond proceeds, and any proposal to purchase, lease, or otherwise acquire rights, privileges, or services by contract, the compensation for which shall be payable over a period of time exceeding 20 years, shall be submitted to the qualified electors of the authority for their approval and shall be voted upon at an election where the proceedings are held, insofar as applicable, in the manner provided in this act for the authorization and issuance of the bonds of the authority, except that the vote of a majority of the electors voting upon the proposition shall be sufficient to authorize the incurring of the indebtedness. Notice of the election shall contain, in addition to the information required in the case of bond elections, a statement of the maximum amount of money to be paid under the contract, exclusive of penalties and interest, for what purposes the money is to be expended, and the property, improvements, works, rights, privileges, or services to be acquired thereby. The ballots at the election shall contain a brief statement of the general purposes of the contract and the amount of the obligation to be assumed, with the words "Contract—Yes" and "Contract—No." The board of directors may submit the contract or proposed contract to the superior court of the county where the authority is located to determine the validity thereof and the legal authority of the board to enter into the contract, with the same proceedings to be held as provided in this act in the case of the judicial determination of the validity of bonds issued pursuant to this act and with like effect.

(b) If a proposition to consider the issuance of revenue bonds under the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 6 of the Government Code) has been submitted to the qualified voters of an authority at an election held for that purpose and received the affirmative vote of a majority of the electors voting upon the proposition and, therefore, constitutes authority to issue revenue bonds under the Revenue Bond Law of 1941, the authority may, in lieu of issuing those

revenue bonds, incur an indebtedness by contract, in addition to the indebtedness authorized by subdivision (a), in an amount, excluding penalties and interest, up to the amount authorized by and for the purpose authorized by the revenue bond proposition. The indebtedness shall be payable over a period of not to exceed 30 years, as provided in the resolution of the board of directors.

SEC. 2. Section 10 of the County Water Authority Act (Chapter 545 of the Statutes of 1943) is amended to read:

Sec. 10. (a) For the purposes of this section, the following definitions apply to the terms used; the term "city" means and includes any municipal corporation or municipality of the State of California, whether organized under a freeholder's charter or under the provisions of general law of the type and class of cities and incoporated towns; the term "water district" means and includes any municipal water district, municipal utility district, public utility district, county water district, irrigation district, or any other public corporation or agency of the State of California of similar character.

(b) Territory may be annexed to any county water authority organized under this act by one of the following methods:

(1) By annexation to, or consolidation with, the area of any city, the area of which, as a separate unit, has become a part of any county water authority organized under this act, the annexation or consolidation to occur upon compliance with the provisions of law governing the annexation to, or consolidation with, the area of the city. Upon completion of the annexation to, or consolidation with, the city in compliance with the provisions of law applicable thereto, the territory shall become, and be, a part of the county water authority, and the taxable property therein shall be subject to taxation thereafter for the purposes of the county water authority, including the payment of bonds and other obligations of the authority at the time authorized or outstanding.

(2) By annexation to, or consolidation with, any city which, as a separate unit, has become a part of any water district whose area, as a separate unit, has become a part of any county water authority organized under this act, in instances where, under the applicable provisions of law governing the change of boundaries of the water district, the annexation or consolidation automatically will result in the enlargement of the area of the water district, the annexation or consolidation to occur upon compliance with the provisions of law governing the annexation to, or consolidation with, the area of the city. Upon completion of the annexation to, or consolidation with, the city in compliance with the provisions of law applicable thereto, the territory shall become, and be, a part of the water district and of the county water authority, and the taxable property therein shall be subject to taxation thereafter for the purposes of the water district and of the county water authority, including the payment of bonds and other obligations of the water district and of the county water authority at the time authorized or outstanding. If any territory has been so annexed to, or consolidated with, any city prior to the

effective date of this paragraph, under conditions which would have resulted in the enlargement of the area of the county water authority had this paragraph then been in effect, upon compliance with the following provisions of this paragraph, the territory shall be annexed to, and shall become and be part of, the county water authority and shall be a part of the water district for all purposes, the last-mentioned provisions being as follows:

(A) The governing body of the city, at any time after the effective date of this paragraph, may adopt an ordinance which, after reciting that the territory has been annexed to, or consolidated with, the city by proceedings previously taken under statutory authority, and after referring to the applicable statutes and to the date and place of filing of the certificate or certificates evidencing the annexation or consolidation, shall describe the territory and shall determine and declare that the territory shall be, and thereby is, annexed to the county water authority, and the ordinance shall further determine and declare that the territory shall become and be, and thereby is, a part of the county water authority, and shall be, and thereby is, a part of the water district for all purposes.

(B) The governing body, or clerk thereof, of the city shall file a certified copy of the ordinance with the Secretary of State. Upon the filing of the certified copy of the ordinance in the office of the Secretary of State, the territory shall become, and be, a part of the county water authority and shall be a part of the water district for all purposes, and the taxable property therein shall be subject to taxation thereafter for the purposes of the county water authority and of the water district, including the payment of bonds and other obligations of the county water authority at the time authorized or outstanding.

(C) Upon the filing of the certified copy of the ordinance, the Secretary of State shall, within 10 days, issue a certificate, describing the territory, reciting the filing of the certified copy of the ordinance and the annexation of the territory to the county water authority, and declaring that the territory is a part of the county water authority and of the water district. The Secretary of State shall transmit the original of the certificate to the secretary of the county water authority and a duplicate of the original certificate to the clerk of the governing body of the water district, and shall forward a certified copy of the certificate to the county clerk of the county in which the county water authority is situated.

(3) Upon terms and conditions fixed by the board of directors of the county water authority and in the manner provided in subdivision (c), by direct annexation, as a separate unit, of the corporate area of any water district or city.

(4) Upon terms and conditions fixed by the board of directors of the county water authority and in the manner provided in subdivision (d), by annexation to, or consolidation with, any water district, the area of which, in whole or in part, is included within the county water authority as a separate unit; provided that, unless the

territory is so annexed to the county water authority with the consent of the board of directors, the annexation of territory to, or the consolidation of, the territory with the water district does not authorize or entitle the water district or the territory to demand or receive any water from the county water authority for use in the territory; and provided further, that, except where automatic annexation results under the conditions specified in paragraph (2), nothing in this act prevents the annexation of territory to, or the consolidation of territory with, any water district for its local purposes only and without annexing the territory to the county water authority, and the local annexation or consolidation may occur without requesting or obtaining the consent thereto of the board of directors of the county water authority.

(c) The governing body of any water district or city may apply to the board of directors of the county water authority for consent to annex the corporate area of the water district or city to the county water authority. The board of directors may grant or deny the application and, in granting the application, may fix the terms and conditions upon which the corporate area of the water district or city may be annexed to, and become a part of, the county water authority. These terms and conditions may provide, among other things, for the levy by the county water authority of special taxes upon taxable property within the water district or city, in addition to the taxes authorized to be levied by the county water authority by other provisions of this act. In case these terms and conditions provide for the levy of these special taxes, the board of directors, in fixing these terms and conditions, shall specify the aggregate amount to be so raised and the number of years prescribed for raising the aggregate sum, and that substantially equal annual levies will be made for the purpose of raising the sum over the period so prescribed. The action of the board of directors, evidenced by resolution, shall be promptly transmitted to the governing body of the applying water district or city and, if the action grants consent to the annexation, the governing body may thereupon submit, to the qualified electors of the water district or city at any general or special election held therein, the proposition of the annexation subject to the terms and conditions. Notice of the election shall be mailed to each voter qualified to vote at the election and shall be given by posting or publication. When notice is given by posting, the notices shall be posted at least 10 days and in three public places in the water district or city. When notice is given by publication, the notice shall be published in the water district or city pursuant to Section 6061 of the Government Code, at least 10 days before the date fixed for the election. The notice shall contain the substance of the terms and conditions fixed by the board of directors. The election shall be conducted and the returns thereof canvassed in the manner provided by law for elections in the water district or city. If the proposition receives the affirmative vote of a majority of electors of the water district or city voting thereon at the election, the

governing body of the water district or city shall certify the result of the election on the proposition to the board of directors of the county water authority, together with a legal description of the boundaries of the corporate area of the water district or city, accompanied by a map or plat indicating those boundaries. A certificate of proceedings shall be made by the secretary of the county water authority and filed with the Secretary of State. Upon the filing thereof in the office of the Secretary of State, the corporate area of the water district or city shall become, and be, an integral part of the county water authority, and the taxable property therein shall be subject to taxation thereafter for the purposes of the county water authority, including the payment of bonds and other obligations of the county water authority at the time authorized or outstanding, and the board of directors of the county water authority may do all things necessary to enforce and make effective the terms and conditions of annexation fixed as authorized. Upon the filing of the certificate of proceedings, the Secretary of State shall, within 10 days, issue a certificate, reciting the filing of the papers and the annexation of the corporate area of the water district or city to the county water authority. The Secretary of State shall transmit the original of the certificate to the secretary of the county water authority and shall forward a certified copy thereof to the county clerk of the county in which the county water authority is situated.

(1) If a water district applies to a county water authority for consent to annex its corporate area, as a separate unit, the water district shall include as a part of its corporate area the corporate areas of any cities (whether one or more) which are already included within the county water authority as separate units, or the water district shall include as a part of its corporate area the corporate areas, or portion thereof, already included within the county water authority, of any water districts (whether one or more) whose corporate areas, in whole or in part, are already included within the county water authority as separate units. That fact shall be taken into consideration by the board of directors of the county water authority in fixing the terms and conditions upon which the applying water district may be annexed to the county water authority, to the end that the areas within the unit member cities or water districts which are already a part of the county water authority, shall not be required to assume any greater financial burden or obligation to the county water authority than they would have had if they had remained a part of the county water authority as separate units.

Concurrently with any election called by an applying water district to submit to the qualified electors of the water district the question of whether the terms and conditions fixed by the board of directors of the county water authority for annexation shall be approved, the governing bodies of the unit member cities or water districts may call and hold elections within their respective corporate limits or portions thereof already included within the county water authority, to determine whether or not the cities or water districts

shall withdraw from the county water authority as separate units, and the proposed withdrawal may be made and submitted conditioned upon and effective when the applying water district has finally been annexed to the county water authority.

The effect of the concurrent elections, if a majority of the electors of the applying water district voting thereat vote in favor of annexation, and a majority of the electors of the unit member cities or water districts voting thereat vote in favor of withdrawing, shall be that the annexing water district thereafter shall be authorized to exercise the privileges and to discharge the duties prescribed in this act for public agencies whose areas, as separate units, are included within the county water authority, in place of and instead of the cities or water districts so withdrawing. Notwithstanding Section 11 of this act, the areas within the withdrawing cities or water districts shall remain a part of the county water authority and shall not be excluded therefrom, notwithstanding the fact that the cities or water districts, as corporate entities, have withdrawn from the authority.

If the water district does annex to the county water authority, the directors representing the withdrawing cities or water districts on the board of directors of the county water authority shall continue to act until their successors have been chosen and designated by the appropriate officers of the annexing water district and have qualified as members of the board of directors of the county water authority, after which time the directors representing the withdrawing cities or water districts shall no longer sit or vote on the board.

(2) If a water district applies to a county water authority for consent to annex its corporate area as a separate unit, the water district shall include as a part of its corporate area lands which are in public ownership exempt from taxation by a county water authority, and not within or adjacent to the area within the water district served with water by the district, and which are not to be supplied by the water district with water obtained from, and by reason of, its annexation to the county water authority. That fact may be taken into consideration by the board of directors of the county water authority in fixing the terms and conditions upon which the water district may be annexed to the county water authority and in determining the boundaries of the area to be annexed, and the county water authority may, in the discretion of its board of directors, annex all of the corporate area of the water district as a separate unit excepting that portion consisting of the publicly owned and tax-exempt lands.

(d) The governing body of any water district, the area of which, in whole or in part, is included within a county water authority as a separate unit, may apply to the board of directors of the county water authority for consent to annex to the county water authority territory which the water district seeks to annex to, or consolidate with, the water district, or territory which, without making the territory a part of the county water authority, already has been annexed to, or consolidated with, the water district. The board of directors may

grant or deny the application and, in granting the application, may fix the terms and conditions upon which the territory may be annexed to, and become a part of, the county water authority. The terms and conditions may provide, among other things, for the levy by the county water authority of special taxes upon taxable property within the territory in addition to the taxes authorized to be levied by the county water authority by other provisions of this act. In case the terms and conditions provide for the levy of those special taxes, the board of directors, in fixing those terms and conditions, shall specify the aggregate amount to be so raised and the number of years prescribed for raising that aggregate sum and that substantially equal annual levies will be made for the purpose of raising that sum over the period so prescribed. The action of the board of directors evidenced by resolution shall be promptly transmitted to the governing body of the applying water district and to the executive officer of the local agency formation commission of the county in which the county water authority is situated, who may defer the issuance of a certificate of filing until receipt of that resolution, and if the action grants consent to the annexation, the territory may be annexed to the county water authority as provided in paragraph (1) or (2).

(1) If the territory has not been previously annexed to, or consolidated with, the water district, upon completion of the annexation to, or consolidation with, the water district in compliance with the provisions of law applicable thereto, including this section, the territory shall become and be a part of the county water authority and the taxable property therein shall be subject to taxation thereafter for the purposes of the county water authority, including the payment of bonds and other obligations of the county water authority at the time authorized or outstanding, and the board of directors of the county water authority may do all things necessary to enforce and make effective the terms and conditions of annexation fixed; provided that, if the applicable provisions of law governing the annexation to, or consolidation with the water district require any notice of any election called for the purpose of determining whether the proposed annexation or consolidation shall occur, or shall require any notice of hearing or other notice to be given to the residents or electors of, or owners of property in, the territory, the notice shall contain the substance of the terms and conditions of annexation to the county water authority fixed by the board of directors of the county water authority; and provided further, that the local agency formation commission shall require that the annexation to the water district be subject to the terms and conditions fixed by the board of directors of the county water authority in addition to any other terms and conditions that may be required by the commission; and provided further, that the executive officer of the local agency formation commission having the duty of preparing, executing, and filing a certificate of completion resulting in the annexation to, or consolidation with, the water district, pursuant to the provisions of

law applicable thereto, shall include in the certificate of completion the terms and conditions fixed by the board of directors of the county water authority in accordance with the provisions of this act, and shall file a duplicate of the certificate with the board of directors of the county water authority.

(2) If the territory sought to be annexed to a county water authority has been previously annexed to, or consolidated with, the water district, the governing body of the water district, upon being advised of the action of the board of directors of the county water authority, and if the action grants consent to the annexation, may submit to the qualified electors of the territory, if the territory has 12 or more registered voters, at any general or special election held therein, the proposition of the annexation to the county water authority subject to the terms and conditions fixed by the board of directors of the county water authority. Notice of the election shall be given by publication. When the notice is given by posting, the notice shall be posted at least 10 days and in three public places in the territory. When the notice is given by publication, the notice shall be published in the water district pursuant to Section 6061 of the Government Code at least 10 days before the date fixed for the election. The notice shall contain the substance of the terms and conditions fixed by the board of directors. The election shall be conducted and the returns thereof canvassed by the governing body of the water district in the manner provided by law for elections in the water district. If the proposition receives the affirmative vote of a majority of electors of the territory voting thereon at the election, the governing body of the water district shall certify the result of the election on the proposition to the board of directors of the county water authority. If the territory has less than 12 registered voters, no election shall be required, and, following written notice to each owner of property shown on the last equalized assessment roll and the holding of a hearing not less than 10 days after that notice, the annexation may be approved upon the written consent of the owners of more than 50 percent of the assessed valuation of the territory. A certificate of proceedings shall be made by the secretary of the county water authority and filed with the Secretary of State. Upon the filing thereof in the office of the Secretary of State, the territory shall become, and be, a part of the county water authority, and the taxable property therein shall be subject to taxation thereafter for the purposes of the county water authority, including the payment of bonds and other obligations of the county water authority at the time authorized or outstanding, and the board of directors of the county water authority may do all things necessary to enforce and make effective the terms and conditions of annexation of the territory to the county water authority fixed by its board of directors. Upon the filing of the certificate of proceedings, the Secretary of State shall, within 10 days, issue a certificate reciting the filing of the papers and the annexation of the territory to the county water authority. The Secretary of State shall transmit the original of the

certificate to the secretary of the county water authority and shall forward a certified copy thereof to the county clerk of the county in which the county water authority is situated.

(e) Should the corporate area, or all portions thereof already included within a county water authority, of any water district or city, the corporate area of which, in whole or in part, already is included within the county water authority as a separate unit, annex to a water district or city the corporate area of which, in whole or in part, already is a part of the county water authority as a separate unit, upon the completion of the annexation pursuant to the law pertaining thereto, the water district or city, the corporate area (or portions thereof) of which is so annexed, shall automatically cease to be a separate unit member of the county water authority, but the corporate area (or portions thereof) shall remain a part of the county water authority as a part of the unit member water district or city to which it was annexed. The executive officer of the local agency formation commission having the duty of preparing, executing, and filing the certificate of completion shall file, in addition to any other filings that may be required by law, a duplicate of the certificate with the board of directors of the county water authority.

Should any water district or city, the corporate area of which, in whole or in part, already is included within a county water authority as a separate unit, consolidate with a water district or city the corporate area of which, in whole or in part, already is a part of the county water authority as a separate unit, under the provisions of any law by the terms of which, after consolidation, a new district or city will result and the former water districts or cities participating in the consolidation shall no longer exist, the resulting new water district or city shall be substituted for the water districts or cities whose corporate existence has been terminated by the consolidation as a unit member of the county water authority, and the corporate areas (or portions thereof) of the former water district or cities shall remain a part of the county water authority as a part of the consolidation. The executive officer of the local agency formation commission having the duty of preparing, executing, and filing a certificate of completion shall file, in addition to any other filings that may be required by law, a duplicate of the certificate with the board of directors of the county water authority.

(f) The validity of any proceedings for the annexation to any county water authority organized under this act, of the corporate area of a water district or city as a separate unit, or of territory annexed to, or consolidated with, a water district or city which, as a unit, has been included within a county water authority, shall not be contested in any action unless the action has been brought within three months after the completion of the annexation or, in case the annexation is completed prior to the time that this subdivision takes effect, then within three months after this subdivision became effective.

(g) Whenever territory is annexed to or consolidated with any

water district, the corporate area of which, as a unit, has become a part of any county water authority organized under this act, regardless of whether the territory is annexed to and becomes a part of the county water authority, or whenever territory is annexed to any city under the conditions specified in paragraph (1) or (2) of subdivision (b), or whenever territory previously annexed to any city is annexed to the county water authority under the conditions specified in paragraph (2) of subdivision (b), the governing or legislative body, or clerk thereof, of the water district or city, shall file with the board of directors of the county water authority a statement of the change of boundaries of the water district or city, setting forth the legal description of the boundaries of the water district or city, as so changed, and of the part thereof within the county water authority, which statement shall be accompanied by a map or plat indicating those boundaries.

(h) The inclusion in a county water authority of the corporate area, in whole or in part, of any municipal water district, municipal utility district, public utility district, county water district, irrigation district, or other public corporation or agency of the state of similar character, referred to in Section 2, shall not destroy the identity or legal existence or impair the powers of any municipal water district, municipal utility district, public utility district, county water district, irrigation district, or other public corporation or agency of the state of similar character, notwithstanding the identity of purpose or substantial identity of purpose of the county water authority.

(i) In determining the number of members of the board of directors of a county water authority organized under this act, and the number of votes to be cast by the directors, from the component public agencies, the corporate areas of which, in whole or in part, are included as units within the county water authority, there shall be considered only the assessed valuation of the property taxable for county water authority purposes lying in the public agencies and in the county water authority. The directors shall be appointed by the chief executive officers, with the consent and approval of the governing bodies, of the component public agencies, respectively, without regard to whether the chief executive officers or members of the governing bodies have been chosen from, or represent, areas of their respective public agencies which lie outside of the county water authority. The phrase "any water district, the corporate area of which is included within the county water authority" and the phrase "each city, the area of which shall be a part of any county water authority incorporated under this act," and like phrases, used elsewhere in this act, shall be deemed to mean and refer to any water district or city, the corporate area of which, either in whole or in part, is included within the county water authority, but the duties and obligations of the county water authority shall extend only to that part of the corporate area of the water district or city which lie within the county water authority. As to the water district, city, or public agency, the corporate area of which lies partly within and partly

without the county water authority, the word "therein" and the phrase "within the city" and like words and phrases, used elsewhere in this act, shall be deemed to mean and refer to that part of the corporate area of the water district, city, or public agency which lies within the county water authority. The charges for water supplied by the county water authority to any component public agency, pursuant to its request, shall be and become an obligation of the public agency, regardless of whether the entire corporate area of the public agency is included within the county water authority, and the county water authority, in administrative and contractual matters, shall deal with the chief executive officers and governing bodies and other proper officials of the component public agencies as chosen or constituted under applicable laws governing the respective public agencies.

SEC. 3. Section 11 of the County Water Authority Act (Chapter 545 of the Statutes of 1943) is amended to read:

Sec. 11. (a) Exclusion of territory from any county water authority may be effected by either of the following methods:

(1) Territory excluded from the portion of the corporate area of any public agency which lies within the exterior boundaries of a county water authority, the public agency being a unit of the authority, and which exclusion occurs in accordance with the provisions of law applicable to those exclusions, shall thereby be excluded from and shall no longer be a part of the authority; provided, that the taxable property within the excluded territory shall continue to be taxable by the county water authority for the purpose of paying the bounded or other indebtedness outstanding or contracted for at the time of the exclusion and until the bonded or other indebtedness has been satisfied; provided further, that if the taxable property within the excluded territory or any part thereof shall be, at the time of the exclusion, subject to special taxes levied, or to be levied, by the county water authority pursuant to terms and conditions previously fixed under paragraph subdivision (c) or (d) of Section 10 for the annexation of the excluded territory or part thereof to the county water authority, the taxable property within the excluded territory or part thereof so subject to those special taxes shall continue to be taxable by the county water authority for the purpose of raising the aggregate sums to be raised by the levy of special taxes upon taxable property within the respective annexing areas pursuant to terms and conditions for the annexation or annexations as so fixed and until the aggregate sums have been so raised by the special tax levies.

Exclusion of territory from a county water authority pursuant to this paragraph shall not occur if two or more public agencies that are included in a county water authority as separate units are subject to a reorganization of their boundaries under applicable provisions of law which would result in an exchange or transfer, but not an overlapping, of territory that is entirely within the county water authority. The boundaries of those agencies within the county water

authority, upon that reorganization and the filing with the secretary of the county water authority of a copy of the certificate of completion prepared, executed, and filed by the executive officer of the local agency formation commission responsible therefore constitute the boundaries of the agencies for all purposes of the county water authority, without action by the board of directors of the county water authority. If the exchange includes territory subject to special conditions and tax levies pursuant to the terms of annexation at the time the territory became a part of the county water authority, the territory shall continue to be subject to those conditions and to be taxable by the county water authority or those levies.

From and after the effective date of the inclusion of the territory by the including public agency, the territory shall be considered to be a part of the corporate area of the including agency; provided, however, that, if the taxable property within the territory, or any portion thereof, is subject to special taxes levied or to be levied by the county water authority pursuant to terms and condition previously fixed under subdivision (c) or (d) of Section 10 for the annexation of the territory or portion thereof to the county water authority, then the taxable property within the territory shall continue to be taxable by the county water authority for the purpose of raising the aggregate sums to be raised by the levy of the special taxes pursuant to the terms and conditions for the annexation or annexations as so fixed and until the aggregate sums have been or raised by the special tax levy.

(2) Any public agency whose corporate area as a unit has become or is a part of any county water authority may obtain the exclusion of the area therefrom in the following manner:

The governing body of any public agency may submit to the electors thereof at any general or special election the proposition of excluding from the county water authority the corporate area of the public agency. Notice of the election shall be given in the manner provided in subdivision (c) of Section 10. The election shall be conducted and the returns thereof canvassed in the manner provided by law for the conduct of elections in the public agency. If a majority of electors voting thereon vote in favor of withdrawal, the result thereof shall be certified by the governing body of the public agency to the board of directors of the county water authority. A certificate of the proceedings shall be made by the secretary of the county water authority and filed with the Secretary of State. Upon the filing of the certificate, the corporate area of the public agency shall be excluded from the county water authority and shall no longer be a part thereof; provided, that the taxable property within the excluded area shall continue to be taxable by the county water authority for the purpose of paying the bonded and other indebtedness of the county water authority outstanding or contracted for at the time of the exclusion and until the bonded or other indebtedness has been satisfied; provided further, that if the

taxable property within the excluded area or any part thereof is, at the time of the exclusion, subject to special taxes levied or to be levied by the county water authority pursuant to the terms and conditions previously fixed under subdivision (c) or (d) of Section 10 for the annexation of the excluded area or part thereof to the county water authority, the taxable property within the excluded area or part thereof so subject to the special taxes shall continue to be taxable by the county water authority for the purpose of raising the aggregate sums to be raised by the levy of special taxes upon taxable property within the respective annexing areas pursuant to the terms and conditions for the annexation or annexations as so fixed and until the aggregate sums have been so raised by the special tax levies. Upon the filing of the certificate of proceedings, the Secretary of State shall, within 10 days, issue a certificate reciting the filing of the papers in his or her office and the exclusion of the corporate area of the public agency from the county water authority. The Secretary of State shall transmit the original of the certificate to the secretary of the county water authority and shall forward a certified copy thereof to the county clerk of the county in which the county water authority is situated.

(b) Whenever territory is excluded from any public agency in accordance with paragraph (1) of subdivision (a), the governing body, or clerk thereof, of the public agency shall file with the board of directors of the county water authority a statement of the change of boundaries of the public agency, setting forth the legal description of the boundaries of the public agency, as so changed, and of the part thereof within the county water authority, which statement shall be accompanied by a map or plat indicating the boundaries.

(c) Whenever any territory has been excluded from any public agency prior to the effective date of this section, under conditions which would have resulted in the exclusion of the territory from a county water authority had paragraph (1) of subdivision (a) then been in effect, upon compliance with the following provisions of this paragraph, the territory shall be excluded from and shall no longer be a part of, the authority, the last-mentioned provisions being as follows:

(1) The governing body of the public agency may adopt an ordinance which, after reciting that the territory has been excluded from the public agency by proceedings previously taken under statutory authority, and after referring to the applicable statutes and to the date or dates upon which the exclusion became effective, shall describe the territory and shall determine and declare that the territory shall be, and thereby is, excluded from the county water authority.

(2) The governing body, or clerk thereof, of the public agency shall file a certified copy of the ordinance with the Secretary of State. Upon the filing of the certified copy of the ordinance in the office of the Secretary of State, the territory shall be excluded from, and shall no longer be a part of, the county water authority; provided, that the

taxable property within the excluded territory shall continue to be taxable by the county water authority for the purpose of paying the bonded or other indebtedness outstanding or contracted for at the time of the exclusion, and until the bonded or other indebtedness has been satisfied; provided further, that if the taxable property within the excluded territory or any part thereof is, at the time of the exclusion, subject to special taxes levied or to be levied by the county water authority pursuant to terms and conditions previously fixed under subdivision (c) or (d) of Section 10 for the annexation of the excluded territory or part thereof to the county water authority, the taxable property within the excluded territory or part thereof so subject to the special taxes shall continue to be taxable by the county water authority for the purpose of raising the aggregate sums to be raised by the levy of special taxes upon taxable property within the respective annexing areas pursuant to the terms and conditions for the annexation or annexations as so fixed, and until the aggregate sums have been so raised by the special tax levies.

(3) Upon the filing of the certified copy of the ordinance, the Secretary of State shall, within 10 days issue a certificate describing the territory, reciting the filing of certified copy of the ordinance and the exclusion of the territory from the county water authority, and declaring that the territory is no longer a part of the county water authority. The Secretary of State shall transmit the orginal of the certificate to the secretary of the county water authority and shall forward a certified copy of the certificate to the county clerk of the county in which the county water authority is situated.

(d) Whenever any territory has been exchanged or transferred pursuant to law prior to January 1, 1986, among two or more public agencies that are included in a county water authority as separate units, the territory shall not be deemed excluded from the county water authority, notwithstanding the failure of the county water authority to give its consent to the exchange or transfer of the territory, if there has been filed with the board of directors of the county water authority prior to January 1, 1986, a statement of the change of boundaries of the agencies, as so changed, and of the part within the county water authority, which statement shall be accompanied by a map or plat indicating those boundaries.

SEC. 4. Section 13 of the County Water Authority Act (Chapter 545 of the Statutes of 1943) is amended to read:

SEC. 13. All matters and things necessary for the proper administration of the affairs of the authority which are not provided for in this act shall be provided for by the board of directors of the authority by ordinance or resolution. Any action required by this act to be done by resolution may be done, with equal validity, by ordinance.

SEC. 5. 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. 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 county water authorities to take advantage of lower financing rates at the earliest opportunity, it is necessary that this act take effect immediately.

CHAPTER 1409

An act to amend Section 1203.1c of the Penal Code, relating to incarceration costs.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 1203.1c of the Penal Code is amended to read:

1203.1c. (a) In any case in which a defendant is convicted of an offense and is ordered to serve a period of confinement in a county jail, city jail, or other local detention facility as a term of probation, the court may, after a hearing, make a determination of the ability of the defendant to pay all or a portion of the reasonable costs of such incarceration, including incarceration pending disposition of the case. The reasonable cost of such incarceration shall not exceed the amount determined by the board of supervisors, with respect to the county jail, and by the city council, with respect to the city jail, to be the actual average cost thereof on a per-day basis. The court may, in its discretion, hold additional hearings during the probationary period. The court may, in its discretion before such hearing, order the defendant to file a statement setting forth his or her assets, liability and income, under penalty of perjury, and may order the defendant to appear before a county officer designated by the board of supervisors to make an inquiry into the ability of the defendant to pay all or a portion of such costs. At the hearing, the defendant shall be entitled to have the opportunity to be heard in person or to be represented by counsel, to present witnesses and other evidence, and to confront and cross-examine adverse witnesses. A defendant represented by counsel appointed by the court in the criminal proceedings shall be entitled to such representation at any hearing held pursuant to this section. If the court determines that the defendant has the ability to pay all or a part of the costs, the court may set the amount to be reimbursed and order the defendant to pay that sum to the county, or to the city with respect to incarceration in the city jail, in the manner in which the court believes reasonable

and compatible with the defendant's financial ability. The court shall order that such payments be made in the same manner as on a judgment in a civil action. The order to pay all or part of the costs shall not be enforced by contempt.

If practicable, the court shall order payments to be made on a monthly basis and the payments shall be made payable to the county officer designated by the board of supervisors, or to the city officer designated by the city council with respect to incarceration in the city jail.

A payment schedule for reimbursement of the costs of incarceration pursuant to this section based upon income shall be developed by the county officer designated by the board of supervisors, or by the city council with respect to incarceration in the city jail, and approved by the presiding judges of the municipal and superior courts.

(b) "Ability to pay" means the overall capability of the defendant to reimburse the costs, or a portion of the costs, of incarceration and includes, but is not limited to, the defendant's:

(1) Present financial obligations, including family support obligations, and fines, penalties and other obligations to the court.

(2) Reasonably discernible future financial position. In no event shall the court consider a period of more than one year from the date of the hearing for purposes of determining reasonable discernible future position.

(3) Likelihood that the defendant shall be able to obtain employment within the one year period from the date of the hearing.

(4) Any other factor or factors which may bear upon the defendant's financial ability to reimburse the county or city for the costs.

(c) All sums paid by a defendant pursuant to this section shall be deposited in the general fund of the county or city.

(d) This section shall be operative in a county upon the adoption of an ordinance to that effect by the board of supervisors, and shall be operative in a city upon the adoption of an ordinance to that effect by the city council. Such ordinance shall include a designation of the officer responsible for collection of moneys ordered pursuant to this section and shall include a determination, to be reviewed annually, of the average per-day costs of incarceration in the county jail, city jail, or other local detention facility.

SEC. 2. Section 1203.1c of the Penal Code is amended to read:

1203.1c. (a) In any case in which a defendant is convicted of an offense and is ordered to serve a period of confinement in a county jail, city jail, or other local detention facility as a term of probation or a conditional sentence, the court may, after a hearing, make a determination of the ability of the defendant to pay all or a portion of the reasonable costs of such incarceration, including incarceration pending disposition of the case. The reasonable cost of such incarceration shall not exceed the amount determined by the board of supervisors, with respect to the county jail, and by the city council,

with respect to the city jail, to be the actual average cost thereof on a per-day basis. The court may, in its discretion, hold additional hearings during the probationary period. The court may, in its discretion before such hearing, order the defendant to file a statement setting forth his or her assets, liability and income, under penalty of perjury, and may order the defendant to appear before a county officer designated by the board of supervisors to make an inquiry into the ability of the defendant to pay all or a portion of such costs. At the hearing, the defendant shall be entitled to have the opportunity to be heard in person or to be represented by counsel, to present witnesses and other evidence, and to confront and cross-examine adverse witnesses. A defendant represented by counsel appointed by the court in the criminal proceedings shall be entitled to such representation at any hearing held pursuant to this section. If the court determines that the defendant has the ability to pay all or a part of the costs, the court may set the amount to be reimbursed and order the defendant to pay that sum to the county, or to the city with respect to incarceration in the city jail, in the manner in which the court believes reasonable and compatible with the defendant's financial ability. Execution may be issued on the order in the same manner as on a judgment in a civil action. The order to pay all or part of the costs shall not be enforced by contempt.

If practicable, the court shall order payments to be made on a monthly basis and the payments shall be made payable to the county officer designated by the board of supervisors, or to a city officer designated by the city council with respect to incarceration in the city jail.

A payment schedule for reimbursement of the costs of incarceration pursuant to this section based upon income shall be developed by the county officer designated by the board of supervisors, or by the city council with respect to incarceration in the city jail, and approved by the presiding judges of the municipal and superior courts.

(b) "Ability to pay" means the overall capability of the defendant to reimburse the costs, or a portion of the costs, of incarceration and includes, but is not limited to, the defendant's:

(1) Present financial obligations, including family support obligations, and fines, penalties and other obligations to the court.

(2) Reasonably discernible future financial position. In no event shall the court consider a period of more than one year from the date of the hearing for purposes of determining reasonable discernible future position.

(3) Likelihood that the defendant shall be able to obtain employment within the one-year period from the date of the hearing.

(4) Any other factor or factors which may bear upon the defendant's financial ability to reimburse the county or city for the costs.

(c) All sums paid by a defendant pursuant to this section shall be

deposited in the general fund of the county or city.

(d) This section shall be operative in a county upon the adoption of an ordinance to that effect by the board of supervisors, and shall be operative in a city upon the adoption of an ordinance to that effect by the city council. Such ordinance shall include a designation of the officer responsible for collection of moneys ordered pursuant to this section and shall include a determination, to be reviewed annually, of the average per-day costs of incarceration in the county jail, city jail, or other local detention facility.

SEC. 3. Section 2 of this bill incorporates amendments to Section 1203.1c of the Penal 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 1203.1c of the Penal Code, and (3) this bill is enacted after SB 1252, in which case Section 1 of this bill shall not become operative.

CHAPTER 1410

An act to amend Sections 17810, 17812, and 39441 of the Education Code, relating to school facilities.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 17810 of the Education Code is amended to read:

17810. The governing board of a school district may issue for sale revenue bonds to finance the construction of joint occupancy facilities as prescribed in Article 8 (commencing with Section 39440) of Chapter 3 of Part 23, which facilities are necessary to relieve overcrowded schools. Proceeds from the rental and lease of the facilities shall be used by the governing board to repay the revenue bonds.

As used in this chapter:

(a) "To finance the construction of joint occupancy facilities" means to offset either the cost of constructing the joint occupancy facilities or the cost of financing the construction of joint occupancy facilities, or both.

(b) "Joint occupancy facilities" means any building constructed pursuant to this chapter which is occupied jointly by a school district and a private entity specified in Section 17811 or one or more buildings which are constructed pursuant to this chapter on the same property used by the district and the private entity, but are not occupied jointly. Facilities to be acquired by purchase pursuant to this article for occupancy by pupils shall meet the requirements of Article 3 (commencing with Section 39140) and Article 6

(commencing with Section 39210) of Chapter 2 of Part 23.

(c) "Construction" includes acquisition by purchase.

SEC. 2. Section 17812 of the Education Code is amended to read:

17812. No revenue bonds may be issued for sale by the governing board unless the facilities are to be constructed on district-owned property, except as to facilities to be acquired by purchase.

SEC. 3. Section 39441 of the Education Code is amended to read:

39441. (a) Before the governing board of a school district enters into a lease or agreement pursuant to this article, it shall own a site upon which a building to be used by the district and private person, firm, or corporation may be constructed and shall have complied with the provisions of law relating to the selection and approval of sites.

(b) This section shall not apply to any building to be acquired by purchase pursuant to Article 2 (commencing with Section 17810) of Chapter 26 of Part 10.

CHAPTER 1411

An act to add Section 14059.5 to, and to amend Section 14133.3 of, the Welfare and Institutions Code, relating to medical assistance, and declaring the urgency thereof, to take effect immediately.

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

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

SECTION 1. Section 14059.5 is added to the Welfare and Institutions Code, to read:

14059.5. A service is "medically necessary" or a "medical necessity" when it is reasonable and necessary to protect life, to prevent significant illness or significant disability, or to alleviate severe pain.

SEC. 2. Section 14133.3 of the Welfare and Institutions Code is amended to read:

14133.3. (a) The director shall require fully documented medical justification from providers that the requested services are medically necessary to prevent significant illness, to alleviate severe pain, to protect life, or to prevent significant disability, on all requests for prior authorization.

(b) For services not subject to prior authorization controls, the director shall additionally determine utilization controls which shall be applied to assure that the health care services provided and the conditions treated, are medically necessary to prevent significant illness, alleviate severe pain, to protect life, or prevent significant disability. These utilization controls shall take into account those diseases, illnesses, or injuries which require preventive health

services or treatment to prevent serious deterioration of health.

(c) Nothing in this section shall preclude payment for family planning services or early and periodic screening, diagnosis, and treatment services mandated by federal law.

This section shall not be applied to mental health services as defined under Division 5 (commencing with Section 5000) or Section 14021, or any other mental health services funded by the Medi-Cal program.

SEC. 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 medical services at the earliest time for persons in pain or who have disfunctions it is necessary that this act take effect immediately.

CHAPTER 1412

An act to amend Sections 5019.6 and 87272 of, and to add and repeal Section 87272.1 of, the Education Code, relating to community colleges, and making an appropriation therefor.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 5019.6 of the Education Code is amended to read:

5019.6. The boundaries of the trustee areas shall be adjusted by the governing board of each school district or community college district so that the population of each area is, as nearly as may be, the same proportion of the total population of the district as each of the other areas before the first day of March of the year following the year in which the results of each decennial census are released. If the governing board fails to adjust the boundaries before the first day of March of the year following the year in which the results of each decennial census are released, the county committee on school district organization shall do so before the 30th day of April of the same year.

The governing board of the school or community college district shall reimburse all reasonable costs incurred by a county committee in adjusting the boundaries under these circumstances.

SEC. 2. Section 87272 of the Education Code, as amended by Section 3 of Chapter 943 of the Statutes of 1981, is amended to read:

87272. Fees shall be levied by the board of governors for the issuance and renewal of teaching and related credentials, and the fingerprint investigative check conducted by the Department of

Justice. The fees shall be set by the board in a manner so that revenues shall be produced sufficient to support the credentialing related activities and functions of both agencies, including continuing research and evaluation activities. In no case shall a fee levied under this section exceed forty dollars ($40).

This section shall become operative July 1, 1985, and shall remain in effect only until December 31, 1987, and as of that date is repealed, unless a later enacted statute, which is enacted before December 31, 1987, deletes or extends that date.

SEC. 3. Section 87272.1 is added to the Education Code, to read:

87272.1. Fees shall be levied by the board of governors for the issuance and renewal of teaching and related credentials, and the fingerprint investigative check conducted by the Department of Justice. The fees shall be set by the board in a manner so that revenues shall be produced sufficient to support the credentialing related activities and functions of both agencies, including continuing research and evaluation activities. In no case shall a fee levied under this section exceed twenty-five dollars ($25).

This section shall become operative December 31, 1987.

SEC. 4. (a) The Chancellor of the California Community Colleges shall conduct a study, and report the results of the study to the Legislature no later than February 15, 1987, regarding the necessity of maintaining the credentialing requirements set forth under Chapter 2 (commencing with Section 87200) of Part 51 of the Education Code.

(b) The chancellor shall ensure that the membership of any committee participating in the study conducted under subdivision (a) include appropriate representation of community college instructors.

(c) The Legislature recognizes the complexity and interrelationship of statutes relating to the employment of certificated personnel in the community colleges. It is the intent of the Legislature that the study conducted under subdivision (a) include recommendations for the legislative amendment, repeal, or reenactment of appropriate provisions of the Education Code relating to the subject of this act.

SEC. 5. The sum of fifty thousand dollars ($50,000) is hereby appropriated from the General Fund to the Chancellor of the California Community Colleges for the purposes of the study required by this act.

CHAPTER 1413

An act to amend Sections 2808 and 5001 of the Penal Code, relating to corrections, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 2808 of the Penal Code is amended to read:

2808. The board shall, in the exercise of its duties, have all the powers and do all the things which the board of directors of a private corporation would do, except as specifically limited in this article, including, but not limited to, the following:

(a) To enter into contracts and leases, execute leases, pledge the equipment, inventory and supplies under the control of the authority and the anticipated future receipts of any enterprise under the jurisdiction of the authority as collateral for loans, and execute other necessary instruments and documents.

(b) To assure that all funds received by the authority are kept in commercial accounts according to standard accounting practices.

(c) To arrange for an independent annual audit.

(d) To review and approve the annual budget for the authority, in order to assure that the solvency of the Prison Industries Revolving Fund is maintained.

(e) To contract to employ a general manager to serve as the chief administrative officer of the authority. The person so appointed shall serve at the pleasure of the chairman. The general manager shall have wide and successful experience with a productive enterprise and have a demonstrated appreciation of the problems associated with prison management.

(f) To apply for and administer grants and contracts of all kinds.

(g) To establish, notwithstanding any other provision of law, procedures governing the purchase of raw materials, component parts, and any other goods and services which may be needed by the authority or in the operation of any enterprise under its jurisdiction. Such procedures shall contain provisions for appeal to the board from any action taken in connection with them.

(h) To establish, expand, diminish, or discontinue industrial, agricultural and service enterprises under its jurisdiction to enable the authority to operate as a self-supporting organization, to provide as much employment for inmates as is feasible, and to provide diversified work activities to minimize the impact on existing private industry in the state.

(i) To hold public hearings pursuant to paragraph (h) above to provide an opportunity for persons or organizations who may be affected to appear and present testimony concerning the plans and activities of the authority. The authority shall assure adequate public notice of such hearings. No new industrial, agricultural, or service enterprise which involves a gross annual production of more than fifty thousand dollars ($50,000) shall be established unless and until a hearing concerning the enterprise has been held by a committee of persons designated by the board including at least two board

members. The board shall take into consideration the effect of a proposed enterprise on California industry and shall not approve the establishment of the enterprise if the board determines it would have a comprehensive and substantial adverse impact on California industry which cannot be mitigated.

(j) To periodically determine the prices at which activities, supplies, and services shall be sold.

(k) To report to the Legislature in writing, on or before February 1 of each year, regarding:

(1) The financial activity and condition of each enterprise under its jurisdiction.

(2) The plans of the board regarding any significant changes in existing operations.

(3) The plans of the board regarding the development of new enterprises.

(4) A breakdown, by institution, of the number of prisoners at each institution, working in enterprises under the jurisdiction of the authority, said number to indicate the number of prisoners which are not working full time.

SEC. 2. Section 5001 of the Penal Code is amended to read:

5001. The department is composed of the Director of Corrections and the Prison Industry Authority.

SEC. 3. The sum of fifteen million eight hundred sixty-five thousand twenty-two dollars ($15,865,022) is appropriated from the General Fund to the New Industries Revolving Account in the Prison Industries Revolving Fund for the purpose of making a loan to the Prison Industry Authority in accordance with Section 2810.5 of the Penal Code.

That money may only be loaned for those proposed prison industry projects that have been approved by the Joint Legislative Prison Construction and Operations Committee.

SEC. 4. Section 3 of this act shall not become operative unless both this bill and A.B. 764 of the 1985–86 Regular Session of the Legislature are both enacted, in which case Section 3 shall become operative on the effective date of the bill that is enacted last.

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:

Expansion of the Prison Industry Authority enterprises is necessary to keep pace with the construction of new prisons, to increase work opportunities for inmates, and to maintain public safety and security.

CHAPTER 1414

An act relating to clove cigarettes, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. (a) The State Department of Health Services shall appoint a scientific advisory board to evaluate the research and data from ongoing studies undertaken to determine the hazards associated with the smoking of clove cigarettes. The research and data to be evaluated by the advisory board shall include, but not be limited to, formal scientific studies to be made of inhalation toxicology, and any existing studies of inhalation toxicology, and all scientific data which is obtainable on the use of clove cigarettes. On or before July 1, 1987, the advisory board shall report its findings to the State Department of Health Services which, based on those findings, shall make a determination of the relationship between adverse health effects and the smoking of clove cigarettes.

(b) The State Department of Health Services may pay the advisory board members necessary expenses actually incurred in the performance of their official duties.

(c) The State Department of Health Services shall make a final report of its findings and determinations to the Legislature on or before January 1, 1988.

(d) This section shall remain in effect only until June 30, 1988, and as of that date is repealed, unless a later enacted statute 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:

The smoking of clove cigarettes may cause serious lung damage and other health problems. In order that information regarding this matter, which is necessary for the protection of the public health, may be obtained and evaluated and that a determination as to the relationship between adverse health effects and the smoking of clove cigarettes may be made without delay, it is necessary that this act take effect immediately.

CHAPTER 1415

An act to amend Sections 1520, 1540, and 1541 of, and to add Sections 1540.1, 1547, 1549, 1569.40, and 1569.485 to, the Health and Safety Code, and to add Section 1463.23 to the Penal Code, relating to community care facilities, and making an appropriation therefor.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 1520 of the Health and Safety Code is amended to read:

1520. Any person desiring issuance or renewal of a license for a community care facility or a special permit for specialized services under this chapter shall file with the department, pursuant to regulations, an application on forms furnished by the department, which shall include, but not be limited to:

(a) Evidence satisfactory to the department of the ability of the applicant to comply with this chapter and of rules and regulations promulgated under this chapter by the department. Where there is an application for renewal of a license, evidence satisfactory to the department that the licensee has substantially complied for the term of the previous license with this chapter, and with the rules and regulations promulgated pursuant to this chapter.

(b) Evidence satisfactory to the department that the applicant is of reputable and responsible character. The evidence shall include, but not be limited to, a criminal record clearance pursuant to Section 1522, employment history, and character references. If the applicant is a firm, association, organization, partnership, business trust, corporation, or company, like evidence shall be submitted as to the members or shareholders thereof, and the person in charge of the community care facility for which application for issuance or renewal of license or special permit is made.

(c) Evidence satisfactory to the department that the applicant has sufficient financial resources to maintain the standards of service required by regulations adopted pursuant to this chapter.

(d) Disclosure of the applicant's prior or present service as an administrator, general partner, corporate officer or director of, or as a person who has held or holds a beneficial ownership of 10 percent or more in, any community care facility or in any facility licensed pursuant to Chapter 1 (commencing with Section 1200) or Chapter 2 (commencing with Section 1250).

(e) Disclosure of any revocation or other disciplinary action taken, or in the process of being taken, against a license held or previously held by the entities specified in subdivision (c).

(f) A signed statement that the person desiring issuance or renewal of a license or special permit has read and understood the

community care facility licensure statute and regulations which pertain to the applicant's category of licensure.

(g) Any other information which may be required by the department for the proper administration and enforcement of this chapter.

(h) In implementing this section, the department shall give due consideration to the functions of each separate licensing category.

SEC. 2. Section 1540 of the Health and Safety Code is amended to read:

1540. (a) Any person who violates this chapter, or who willfully or repeatedly violates any rule or regulation promulgated under this chapter, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars ($1,000) or by imprisonment in the county jail for a period not to exceed 180 days, or by both such fine and imprisonment.

(b) Operation of a community care facility without a license shall be subject to a summons to appear in court.

SEC. 3. Section 1540.1 is added to the Health and Safety Code, to read:

1540.1. A peace officer may enforce Section 1503.5, or Section 1508, or both sections by utilizing the procedures set forth in Chapter 5 (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code. A facility violating Section 1503.5 or 1508, or both, is guilty of an infraction punishable by a fine of two hundred dollars ($200) for each day of violation. Upon a determination that a community care facility is in violation of Section 1503.5 or 1508, or both, the peace officer shall immediately notify the Division of Community Care Licensing in the department.

SEC. 4. Section 1541 of the Health and Safety Code is amended to read:

1541. The director may bring an action to enjoin the violation or threatened violation of Section 1503.5 or 1508, or both, in the superior court in and for the county in which the violation occurred or is about to occur. Any proceeding under the provisions of this section shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the director shall not be required to allege facts necessary to show or tending to show lack of adequate remedy at law or irreparable damage or loss. Upon a finding by the director that the violations threaten the health or safety of persons in, or served by, a community care facility, the agency contracted with pursuant to Section 1511 may bring an action to enjoin the violation, threatened violation, or continued violation by any community care facility which is located in an area for which it is responsible pursuant to the terms of the contract.

With respect to any and all actions brought pursuant to this section alleging actual violation of Section 1503.5 or 1508, or both, the court shall, if it finds the allegations to be true, issue its order enjoining the community care facility from continuance of the violation.

SEC. 5. Section 1547 is added to the Health and Safety Code, to read:

1547. (a) Notwithstanding any other provision of this chapter, any person who violates Section 1503.5 or 1508, or both, may be assessed by the department an immediate civil penalty in the amount of two hundred dollars ($200) per day of the violation.

(b) The civil penalty authorized in subdivision (a) shall be imposed if an unlicensed facility is operated and the operator refuses to seek licensure or the operator seeks licensure and the licensure application is denied and the operator continues to operate the unlicensed facility.

(c) An operator may appeal the assessment to the director. The department shall adopt regulations setting forth the appeal procedure.

SEC. 6. Section 1549 is added to the Health and Safety Code, to read:

1549. The civil, criminal, and administrative remedies available to the department pursuant to this article are not exclusive, and may be sought and employed in any combination deemed advisable by the department to enforce this chapter.

SEC. 6.5. Section 1569.40 is added to the Health and Safety Code, to read:

1569.40. (a) 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 such fine and imprisonment.

(b) Operation of a residential care facility for the elderly without a license shall be subject to a summons to appear in court.

SEC. 6.7. Section 1569.485 is added to the Health and Safety Code, to read:

1569.485. (a) Notwithstanding any other provision of this chapter, any person who violates Section 1569.10 or 1569.44, or both, may be assessed by the department an immediate civil penalty in the amount of two hundred dollars ($200) per day of the violation.

(b) The civil penalty authorized in subdivision (a) shall be imposed if an unlicensed facility is operated and the operator refuses to seek licensure or the operator seeks licensure and the licensure application is denied and the operator continues to operate the unlicensed facility.

(c) An operator may appeal the assessment to the director. The department shall adopt regulations setting forth the appeal procedure.

SEC. 7. Sections 3 to 6, inclusive, of this act shall not become operative unless AB 384 of the 1985–86 Regular Session becomes effective and operative and in that case Sections 3 to 6, inclusive, of this act shall become operative at the same time as AB 384 or this bill, whichever is later.

SEC. 8.5. Section 6.5 of this act shall not become operative unless SB 185 of the 1985–86 Regular Session becomes effective and operative and in that case Section 6.5 of this act shall become operative at the same time as SB 185 or this bill, whichever is later.

SEC. 8.7. Section 6.7 of this act shall not become operative unless SB 185 and AB 384 of the 1985–86 Regular Session become effective and operative and in that case Section 6.7 of this act shall become operative at the same time as SB 185, AB 384, or this bill, whichever is later.

SEC. 9. 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. 10. The sum of five hundred fifty-two thousand dollars ($552,000) is hereby appropriated from the General Fund to the State Department of Social Services for support of postlicensing and monitoring activities pertaining to community care facilities and related administrative support by the department.

It is the intent of the Legislature that the Department of Social Services utilize the normal budget process for additional support, in the 1986–87 fiscal year, of the activities for which this appropriation is made.

CHAPTER 1416

An act to amend Section 1615 of, and to add Sections 1600.5, 1616, 1617, 1618, 1619, and 1620 to, the Penal Code, relating to mentally disordered criminal offenders.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. The Legislature finds and declares all of the following:

(a) There is a need to develop mental health services which are designed to meet the treatment needs of those mentally ill persons who commit criminal offenses which constitute a threat to public safety, those who commit minor offenses as a result of an acute exacerbation of a severe mental disorder, and those who are diverted into the jails when acute inpatient beds and other emergency services are unavailable. These groups should be dealt with differently.

(b) The process for transfer of those who commit minor offenses

from the criminal justice system to the mental health system should be facilitated when the representatives of both systems determine that this is the appropriate course of action.

(c) Sufficient acute hospital and nonhospital placements and other emergency services should be available to persons with severe mental disorders who suffer acute psychotic episodes, so that peace officers attempting to obtain services for such persons whose condition qualifies them for treatment under Sections 5150 and 5151 of the Welfare and Institutions Code will not be turned away and the peace officer forced to book the person on a misdemeanor charge based on the same symptoms.

The Legislature further finds and declares that those persons who commit serious crimes as a result of a severe mental disorder should be provided with an appropriate level of treatment in an institutional setting and, upon their return to the community, should be provided with the level of treatment and supervision necessary to reasonably ensure that such a person does not commit another crime. These specialized treatment programs should integrate the treatment and supervision roles. These programs should be reserved for those persons with a severe mental illness and should not be used for those persons with character or personality disorders. To ensure that such a treatment system is designed appropriately, an effort should be made to collect the information necessary to better understand the dimensions of the problem. This will ensure that the most effective program design is developed.

SEC. 2. Section 1600.5 is added to the Penal Code, to read:

1600.5. For a person committed as a mentally disordered sex offender or committed pursuant to Section 1026 or 1026.5, who is placed on outpatient status under the provisions of this title, time spent on outpatient status, except when placed in a locked facility, shall not count as actual custody and shall not be credited toward the person's maximum term of commitment. Time spent in any locked facility shall count as actual custody and shall be credited toward the person's maximum term of commitment.

SEC. 3. Section 1615 of the Penal Code is amended to read:

1615. Pursuant to Section 5709.8 of the Welfare and Institutions Code, the State Department of Mental Health shall be responsible for the community treatment and supervision of judicially committed patients. These services shall be available on a county or regional basis. The department may provide these services directly or through contract with private providers or counties. The program or programs through which these services are provided shall be known as the conditional release program.

The department shall contact all county mental health programs by January 1, 1986, to determine their interest in providing an appropriate level of supervision and treatment of judicially committed patients at reasonable cost. County mental health agencies may agree or refuse to operate such a program.

The State Department of Mental Health shall ensure consistent

data gathering and program standards for use statewide by the conditional release program.

SEC. 4. Section 1616 is added to the Penal Code, to read:

1616. The state shall contract with a research agency which shall determine the prevalence of severe mental disorder among the state prison inmates and parolees, including persons admitted to prison, the resident population, and those discharged to parole. An evaluation of the array of services shall be performed, including the correctional, state hospital, and local inpatient programs; residential-level care and partial day care within the institutions as well as in the community; and the individual and group treatment which may be provided within the correctional setting and in the community upon release. The review shall include the interrelationship between the security and clinical staff, as well as the architectural design which aids meeting the treatment needs of these mentally ill offenders while maintaining a secure setting. Administration of these programs within the institutions and in the community shall be reviewed by the contracting agency. The ability of treatment programs to prevent reoffenses by inmates with severe mental disorders shall also be addressed. The process for evaluating inmates and parolees to determine their need for treatment and the ability to differentiate those who will benefit from treatment and those who will not shall be reviewed.

The State Department of Mental Health, the Department of Corrections, and the Department of Justice shall cooperate with the research agency conducting this study.

The research agency conducting this study shall consult with the State Department of Mental Health, the Department of Corrections, the Department of Justice, and the Forensic Mental Health Association of California in the design of the study.

SEC. 5. Section 1617 is added to the Penal Code, to read:

1617. The State Department of Mental Health shall research the demographic profiles and other related information pertaining to persons receiving supervision and treatment in the conditional release program. An evaluation of the program shall determine its effectiveness in successfully reintegrating these persons into society after release from state institutions. This evaluation of program effectiveness shall include, but not be limited to, a determination of the rates of reoffense while these persons are served by the program and after their discharge. This evaluation shall also address the effectiveness of the various treatment components of the program and their intensity.

The State Department of Mental Health may contract with an independent research agency to perform this research and evaluation project. Any independent research agency conducting this research shall consult with the Forensic Mental Health Association concerning the development of the research and evaluation design.

SEC. 6. Section 1618 is added to the Penal Code, to read:

1618. The administrators and the supervision and treatment staff of the conditional release program shall not be held criminally or civilly liable for any criminal acts committed by the persons on parole or judicial commitment status who receive supervision or treatment. This waiver of liability shall apply to employees of the State Department of Mental Health and the agencies or persons under contract to this department to provide supervision or treatment to mentally ill parolees or persons under judicial commitment.

SEC. 7. Section 1619 is added to the Penal Code, to read:

1619. The Department of Justice shall automate the criminal histories of all persons treated in the Conditional Release Program, as well as all persons committed as not guilty by reason of insanity pursuant to Section 1026, incompetent to stand trial pursuant to Section 1370 or 1370.2, any person currently under commitment as a mentally disordered sex offender , and persons treated pursuant to Section 1364 , 2684, or 2960.

SEC. 8. Section 1620 is added to the Penal Code, to read:

1620. The Department of Justice shall provide mental health agencies providing treatment to patients pursuant to Sections 1600 to 1610, inclusive, or pursuant to Section 2960, with access to criminal histories of those mentally ill offenders who are receiving treatment and supervision. Treatment and supervision staff who have access to these criminal histories shall maintain the confidentiality of the information and shall sign a statement to be developed by the Department of Justice which informs them of this obligation.

SEC. 9. Any costs associated with the provisions of this act shall be subject to appropriation through the Budget Act.

CHAPTER 1417

An act to add and repeal Chapter 12.5 (commencing with Section 18980) to Part 6 of Division 9 of the Welfare and Institutions Code, relating to child abuse prevention coordinating councils.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Chapter 12.5 (commencing with Section 18980) is added to Part 6 of Division 9 of the Welfare and Institutions Code, to read:

CHAPTER 12.5. CHILD ABUSE PREVENTION COORDINATING COUNCIL ACT

Article 1. General Provisions

18980. This chapter shall be known and may be cited as the Child Abuse Prevention Coordinating Council Act.

18981. The Legislature finds and declares all of the following:

(a) Child abuse is one of the most tragic social and criminal justice issues of our times.

(b) Victims of child abuse and their families face a complex intervention system involving many professionals and agencies.

(c) Coordination by child protection agencies and personnel improves the response to a victim and his or her family.

(d) The prevention of child abuse requires the involvement of the entire community.

18981.1. It is the intention of the Legislature to fund child abuse prevention coordinating councils in each county.

Article 2. Child Abuse Prevention Coordinating Councils

18982. A child abuse prevention coordinating council is a community council whose primary purpose is to coordinate the community's efforts to prevent and respond to child abuse

18982.1. Councils funded by this chapter shall encourage representatives from the following:

(a) Public child welfare services, including the following:

(1) The county welfare or children's services department.

(2) The probation department.

(3) Licensing agencies.

(b) The criminal justice system, including the following:

(1) Law enforcement.

(2) The office of the district attorney.

(3) The courts.

(4) The coroner.

(c) Prevention and treatment services communities, including the following:

(1) Medical and mental health services.

(2) Community-based social services.

(3) Public and private schools.

(d) Community representatives, including the following:

(1) Community volunteers.

(2) Civic organizations.

(3) The religious community.

18982.2. The functions of a council shall include, but not be limited to, the following:

(a) To provide a forum for interagency cooperation and coordination in the prevention, detection, treatment, and legal processing of child abuse cases.

(b) To promote public awareness of the abuse and neglect of children and the resources available for intervention and treatment.

(c) To encourage and facilitate training of professionals in the detection, treatment, and prevention of child abuse and neglect.

(d) To recommend improvements in services to families and

victims.

(e) To encourage and facilitate community support for child abuse and neglect programs.

18982.3. Councils may form committees to carry out specific functions, such as the following:

(a) Interagency coordination committees.

(b) Multidisciplinary personnel teams.

(c) Professional training committees.

(d) Public awareness committees.

(e) Service improvement committees.

(f) Advocacy committees.

(g) Fundraising committees.

18982.4. The multidisciplinary personnel team provisions of subdivision (*l*) of Section 5328, subdivision (d) of Section 18951, and Section 18961 shall apply to child abuse prevention coordinating councils funded under this chapter.

Article 3. Selection and Administration

18983. Each county shall fund child abuse prevention coordinating councils which meet the criteria in Section 18982 from the county's children's trust fund. In the event that the county does not create a children's trust fund, the board of supervisors shall apply for funds from the State Children's Trust Fund. Initial funding of councils shall be scheduled to accommodate ongoing funding of programs or funds already encumbered for other purposes.

Funds for councils selected pursuant to this chapter shall not be considered administrative costs for purposes of Sections 18967 and 18969.

18983.3. In the event that more than one council per county exists, the county board of supervisors shall develop a procedure for selecting a council for funding. More than one existing council may be funded in counties with geographically distinct population centers.

18983.4. For counties without existing councils the county board of supervisors shall make every effort to facilitate the formation and funding of a council in that county.

18983.5. Councils funded under this chapter shall be incorporated as nonprofit corporations, or established as independent organizations within county government, or comparably independent organizations as determined by the office. New or existing councils may apply for funds using a fiscal agent pending incorporation.

18983.6. Councils receiving funding under this chapter shall develop a protocol for interagency coordination and provide yearly reports to the county board of supervisors.

18983.8. Councils receiving funding under this chapter shall provide a local cash or in-kind match of 33⅓ percent. For councils unable to raise the full match for the maximum allocation, a partial

grant shall be provided in the amount of three grant dollars to each match dollar.

Article 4. Fiscal Provisions

18984. This chapter shall remain in effect only until June 30, 1989, and as of that date is repealed, unless a later enacted statute, which is enacted before June 30, 1989, 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 a county has the authority to obtain sufficient funds to pay for the program or level of service mandated by this act.

CHAPTER 1418

An act to add Section 2970 to the Penal Code, relating to mentally disordered offenders.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 2970 is added to the Penal Code, to read:

2970. (a) Not later than 180 days prior to the termination of parole, or release from prison if the prisoner refused to agree to treatment as a condition of parole as required by Section 2960, unless good cause is shown for the reduction of that 180-day period, if the prisoner's severe mental disorder is not in remission or cannot be kept in remission, the medical director of the state hospital which is treating the parolee, or the county mental health director in charge of the parolee's outpatient program, or the Director of Corrections shall submit to the district attorney of the county in which the parolee is receiving outpatient treatment, or for those in prison the district attorney of the county of commitment, his or her written evaluation on remission. If requested by the district attorney, the written evaluation shall be accompanied by supporting affidavits. The district attorney may then file a petition with the superior court for continued involuntary treatment for one year. The petition shall state the reasons necessitating the continued treatment, with accompanying affidavits specifying the conditions in subdivision (b) of Section 2960 and that treatment during the parole period, if any, has been continuously provided by the State Department of Mental Health either in a state hospital or in an outpatient program. The petition shall also specify why the severe mental disorder is not in remission or cannot be kept in remission if the person's treatment is not continued.

(b) The court shall conduct a hearing on the petition for

continued treatment. The court shall advise the person of his or her right to be represented by an attorney and of the right to a jury trial. The attorney for the person shall be given a copy of the petition, and any supporting documents. The hearing is a civil hearing, however, in order to reduce costs the rules of criminal discovery as well as civil discovery shall be applicable. The need for continued treatment shall be proven beyond a reasonable doubt, and if the trial is by jury, the jury shall be unanimous in its verdict. The trial shall be by jury unless waived by both the person and the district attorney. The trial shall commence no later than 30 calendar days prior to the time the person would otherwise have been released, unless the time is waived by the person or unless good cause is shown.

(c) The people shall be represented by the district attorney. If the person is indigent, the county public defender shall be appointed.

(d) If the court or jury finds that the patient is a person described in subdivision (b) of Section 2960, and his or her severe mental disorder is not in remission or cannot be kept in remission if treatment is not continued, the court shall order the patient recommitted to the facility in which the patient was confined at the time the petition was filed, or recommitted to the outpatient program in which he or she was being treated at the time the petition was filed, or committed to the State Department of Mental Health if the person was in prison. The commitment shall be for a period of one year from the date of termination of parole or a previous commitment or the scheduled date of release from prison as specified in subdivision (a).

(e) The person shall be released on outpatient status if the committing court finds that there is reasonable cause to believe that the committed person can be safely and effectively treated on an outpatient basis. Except as provided in this subdivision, the provisions of Title 15 (commencing with Section 1600) of Part 2, shall apply to persons placed on outpatient status pursuant to this paragraph. The standard for revocation under Section 1609 shall be that the person cannot be safely and effectively treated on an outpatient basis.

(f) Prior to the termination of a commitment under this section, a petition for recommitment may be filed to determine whether the patient remains a person described in subdivision (b) of Section 2960, which severe mental disorder is not in remission or cannot be kept in remission if treatment is not continued. The recommitment proceeding shall be conducted in accordance with the provisions of this section.

(g) Any commitment under this section places an affirmative obligation on the treatment facility to provide treatment for the underlying causes of the person's mental disorder.

(h) Except as provided in this subdivision, the person committed shall be considered to be an involuntary mental health patient and he or she shall be entitled to those rights set forth in Article 7 (commencing with Section 5325) of Chapter 2 of Part 1 of Division

5 of the Welfare and Institutions Code. Commencing January 1, 1986, the State Department of Mental Health may adopt regulations to modify those rights as is necessary in order to provide for the reasonable security of the inpatient facility in which the patient is being held. This paragraph and the regulations adopted pursuant thereto shall become operative on January 1, 1987.

(i) This section applies to persons incarcerated before, as well as after, the effective date of this section.

(j) The definitions in Section 2960 apply to this section.

(k) If there is a conflict between the provisions of this section and Section 2960, the provisions of Section 2960 shall apply.

SEC. 1.5. Notwithstanding any other provision of law, there shall be no prohibition or limitation on the placement in any state hospital by the Director of Mental Health of judicially committed persons or of persons confined in a state hospital for purposes of mental health treatment pursuant to the Penal Code.

SEC. 1.7. 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. 2. This act shall only become operative if SB 1296 of the 1985–86 Regular Session is enacted, in which case both this act and SB 1296 shall become operative on the operative date contained in SB 1296. If SB 1296 of the 1985–86 Regular Session is not enacted, this act shall not become operative.

CHAPTER 1419

An act to amend Sections 2960 and 3003 of the Penal Code, relating to prisoners.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 2960 of the Penal Code is amended to read:

2960. (a) The Legislature finds that there are prisoners who have a treatable, severe mental disorder which caused, was one of the causes of, or was an aggravating factor in the commission of the crime for which they were incarcerated. Secondly, the Legislature finds that if the severe mental disorders of those prisoners are not in remission or cannot be kept in remission at the time of their parole or upon termination of parole, there is a danger to society, and the state has a compelling interest in protecting the public. Thirdly, the

Legislature finds that in order to protect the public from those persons it is necessary to provide mental health treatment until the severe mental disorder which was one of the causes of or was an aggravating factor in the person's prior criminal behavior is in remission and can be kept in remission.

The Legislature further finds and declares the Department of Corrections should evaluate each prisoner for severe mental disorders during the first year of the prisoner's sentence, and that severely mentally disordered prisoners should be provided with an appropriate level of mental health treatment while in prison and when returned to the community.

(b) As a condition of parole, a prisoner who meets the following criteria shall be required to be treated by the State Department of Mental Health, and the State Department of Mental Health shall provide the necessary treatment:

(1) The prisoner has a severe mental disorder which is not in remission or cannot be kept in remission without treatment. The term "severe mental disorder" means an illness or disease or condition which substantially impairs the person's thought, perception of reality, emotional process, or judgment; or which grossly impairs behavior; or which demonstrates evidence of an acute brain syndrome for which prompt remission in the absence of treatment is unlikely. The term " severe mental disorder" as used in this section does not include a personality or adjustment disorder, epilepsy, mental retardation or other developmental disabilities, or addiction to or abuse of intoxicating substances. The term "remission" means a finding that the overt signs and symptoms of the severe mental disorder are controlled either by psychotropic medication or psychosocial support. A person "cannot be kept in remission without treatment" if during the year prior to the question being before the Board of Prison Terms or a trial court, he or she has been in remission and he or she has been physically violent, except in self-defense, or he or she has made a serious threat of substantial physical harm upon the person of another so as to cause the target of the threat to reasonably fear for his or her safety or the safety of his or her immediate family, or he or she has intentionally caused property damage, or he or she has not voluntarily followed the treatment plan. In determining if a person has voluntarily followed the treatment plan, the standard shall be whether the person has acted as a reasonable person would in following the treatment plan.

(2) The severe mental disorder was one of the causes of or was an aggravating factor in the commission of a crime for which the prisoner was sentenced to prison.

(3) The prisoner has been in treatment for the severe mental disorder for 90 days or more within the year prior to the prisoner's parole or release.

(4) Prior to release on parole the person in charge of treating the prisoner and a practicing psychiatrist or psychologist from the State Department of Mental Health have evaluated the prisoner at a

facility of the Department of Corrections, and a chief psychiatrist of the Department of Corrections has certified to the Board of Prison Terms that the prisoner has a severe mental disorder, that the disorder is not in remission, or cannot be kept in remission due to medical or psychosocial reasons or failure of the prisoner to voluntarily follow prescribed medical treatment, or both, and that the severe mental disorder was one of the causes or was an aggravating factor in the prisoner's criminal behavior. For prisoners being treated by the State Department of Mental Health pursuant to Section 2684, the certification shall be by a chief psychiatrist of the Department of Corrections, and the evaluation shall be done at a state hospital by the person at the state hospital in charge of treating the prisoner and a practicing psychiatrist or psychologist from the Department of Corrections.

If the professionals doing the evaluation do not concur that (A) the prisoner has a severe mental disorder, or (B) that the disorder is not in remission or cannot be kept in remission, or (C) that the severe mental disorder was a cause of, or aggravated the prisoner's criminal behavior, and a chief psychiatrist has certified the prisoner to the Board of Prison Terms pursuant to this paragraph, then the Board of Prison Terms shall order a further examination by two independent professionals, who have at least five years of experience in the diagnosis and treatment of mental disorders, who may be either psychiatrists, or licensed psychologists who have a doctoral degree in psychology. Only if both independent professionals concur with the chief psychiatrist's certification, shall the provisions of this subdivision be applicable to the prisoner.

On July 1 of each year the Department of Corrections and the State Department of Mental Health shall submit to the Board of Prison Terms a list of 20 or more independent professionals on which both departments concur. The professionals shall not be state government employees and shall have at least five years of experience in the diagnosis and treatment of mental disorders and shall include psychiatrists and licensed psychologists who have a doctoral degree in psychology. For purposes of this subdivision, when the Board of Prison Terms receives the list, they shall only appoint independent professionals from the list. The list shall not be binding on the Board of Prison Terms until they have received it, and shall not be binding after June 30 following receipt of the list.

(5) The crime referred to in paragraph (2) was a crime in which the prisoner used force or violence, or caused serious bodily injury as defined in paragraph (5) of subdivision (e) of Section 243.

(c) (1) The treatment required by subdivision (b) shall be inpatient unless the State Department of Mental Health certifies to the Board of Prison Terms that there is reasonable cause to believe the parolee can be safely and effectively treated on an outpatient basis, in which case the Board of Prison Terms shall permit the State Department of Mental Health to place the parolee in an outpatient treatment program specified by the State Department of Mental

Health. Any prisoner who is to be required to accept treatment pursuant to subdivision (b) shall be informed in writing of his or her right to request a hearing pursuant to subdivision (d). Prior to placing a parolee in a local outpatient program, the State Department of Mental Health shall consult with the local outpatient program as to the appropriate treatment plan. Notwithstanding any other provision of law, a parolee ordered to have outpatient treatment pursuant to this section may be placed in an outpatient treatment program used to provide outpatient treatment under Title 15 (commencing with Section 1600) of Part 2, but the procedural provisions of Title 15 shall not apply. The director of an outpatient program used to provide treatment under Title 15 in which a parolee is placed may place the parolee in a secure mental health facility if the parolee can no longer be safely or effectively treated in the outpatient program, and until the parolee can be safely and effectively treated in the program. Within 15 days after placement in a secure facility the State Department of Mental Health shall conduct a hearing on whether the parolee can be safely and effectively treated in the program. Before deciding to seek revocation of the parole of a parolee receiving mental health treatment pursuant to subdivision (b), and return him or her to prison, the parole officer shall consult with the director of the parolee's outpatient program.

(2) If the State Department of Mental Health has not placed a parolee on outpatient treatment within sixty days after receiving custody of the parolee or after parole is continued pursuant to Section 3001, the parolee may request a hearing before the Board of Prison Terms, and the board shall conduct a hearing to determine whether the prisoner shall be treated as an inpatient or an outpatient. At the hearing, the burden shall be on the State Department of Mental Health to establish that the prisoner requires inpatient treatment as described in this subdivision. If the prisoner or any person appearing on his or her behalf at the hearing requests it, the board shall appoint two independent professionals as provided for in paragraph (4) of subdivision (b).

(d) (1) A prisoner may request a hearing before the Board of Prison Terms, and the board shall conduct a hearing if so requested, for the purpose of proving that the prisoner does not meet the criteria in subdivision (b). At the hearing the burden of proof shall be on the person or agency who certified the prisoner under paragraph (4) of subdivision (b). If the prisoner or any person appearing on his or her behalf at the hearing requests it, the board shall appoint two independent professionals as provided for in paragraph (4) of subdivision (b). The prisoner shall be informed at the hearing of his or her right to request a trial pursuant to paragraph (2) of this subdivision. The Board of Prison Terms shall provide a prisoner who requests a trial a petition form and instructions for filing the petition.

(2) A prisoner who disagrees with the determination of the Board

of Prison Terms that he or she meets the criteria of subdivision (b), may file in the superior court of the county in which he or she is incarcerated or is being treated a petition for a hearing on whether he or she meets the criteria of subdivision (b). The court shall conduct a hearing on the petition within sixty calendar days after the petition is filed, unless either time is waived by the petitioner or his counsel, or good cause is shown. The order of the Board of Prison Terms shall be in effect until the completion of the court proceedings. The court shall advise the petitioner of his or her right to be represented by an attorney and of the right to a jury trial. The attorney for the petitioner shall be given a copy of the petition, and any supporting documents. The hearing shall be a civil hearing; however, in order to reduce costs, the rules of criminal discovery, as well as civil discovery, shall be applicable. The standard of proof shall be beyond a reasonable doubt, and if the trial is by jury, the jury shall be unanimous in its verdict. The trial shall be by jury unless waived by both the person and the district attorney.

(3) The provisions of this subdivision shall be applicable to a continuation of a parole pursuant to Section 3001.

(e) If the prisoner's severe mental disorder is put into remission during the parole period, and can be kept in remission, the Director of Mental Health shall notify the Board of Prison Terms and the State Department of Mental Health shall discontinue treating the parolee.

(f) (1) Not later than 180 days prior to the termination of parole, or release from prison if the prisoner refused to agree to treatment as a condition of parole as required by this section, unless good cause is shown for the reduction of that 180-day period, if the prisoner's severe mental disorder is not in remission or cannot be kept in remission, the medical director of the state hospital which is treating the parolee, or the county mental health director in charge of the parolee's outpatient program, or the Director of Corrections shall submit to the district attorney of the county in which the parolee is receiving outpatient treatment, or for those in prison the district attorney of the county of commitment, his or her written evaluation on remission. If requested by the district attorney, the written evaluation shall be accompanied by supporting affidavits. The district attorney may then file a petition with the superior court for continued involuntary treatment for one year. The petition shall state the reasons necessitating the continued treatment, with accompanying affidavits specifying the conditions in subdivision (b) and that treatment during the parole period, if any, has been continuously provided by the State Department of Mental Health either in a state hospital or in an outpatient program. The petition shall also specify why the severe mental disorder is not in remission or cannot be kept in remission if the person's treatment is not continued.

(2) The court shall conduct a hearing on the petition for continued treatment. The court shall advise the person of his or her right to be represented by an attorney and of the right to a jury trial.

The attorney for the person shall be given a copy of the petition, and any supporting documents. The hearing shall be a civil hearing, however, in order to reduce costs the rules of criminal discovery, as well as civil discovery, shall be applicable. The need for continued treatment shall be proven beyond a reasonable doubt, and if the trial is by jury, the jury shall be unanimous in its verdict. The trial shall be by jury unless waived by both the person and the district attorney. The trial shall commence no later than 30 calendar days prior to the time the person would otherwise have been released, unless the time is waived by the person or unless good cause is shown.

(3) The people shall be represented by the district attorney. If the person is indigent, the county public defender shall be appointed.

(4) If the court or jury finds that the patient is a person described in subdivision (b), and his or her severe mental disorder is not in remission or cannot be kept in remission if treatment is not continued, the court shall order the patient recommitted to the facility in which the patient was confined at the time the petition was filed, or recommitted to the outpatient program in which he or she was being treated at the time the petition was filed, or committed to the State Department of Mental Health if the person was in prison. The commitment shall be for a period of one year from the date of termination of parole or a previous commitment or the scheduled date of release from prison as specified in paragraph (1).

(5) A person shall be released on outpatient status if the committing court finds that there is reasonable cause to believe that the committed person can be safely and effectively treated on an outpatient basis. Except as provided in this paragraph, the provisions of Title 15 (commencing with Section 1600) of Part 2, shall apply to persons placed on outpatient status pursuant to this paragraph. The standard for revocation under Section 1609 shall be that the person cannot be safely and effectively treated on an outpatient basis.

(6) Prior to the termination of a commitment under this subdivision, a petition for recommitment may be filed to determine whether the patient remains a person described in subdivision (b) which severe mental disorder is not in remission or cannot be kept in remission if treatment is not continued. The recommitment proceeding shall be conducted in accordance with the provisions of this subdivision.

(7) Any commitment under this section places an affirmative obligation on the treatment facility to provide treatment for the underlying causes of the person's mental disorder.

(8) Except as provided in this paragraph, the person committed shall be considered to be an involuntary mental health patient and he or she shall be entitled to those rights set forth in Article 7 (commencing with Section 5325) of Chapter 2 of Part 1 of Division 5 of the Welfare and Institutions Code. Commencing January 1, 1986, the State Department of Mental Health may adopt regulations to modify those rights as is necessary in order to provide for the reasonable security of the inpatient facility in which the patient is

being held. This paragraph and the regulations adopted pursuant thereto shall become operative on January 1, 1987.

(g) Before releasing any inmate or terminating supervision of any parolee who is a danger to self or others, or gravely disabled as a result of mental disorder, and who does not come within the provisions of subdivision (b), the Director of Corrections may, upon probable cause, place, or cause to be placed, the person in a state hospital pursuant to the Lanterman-Petris-Short Act, Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code.

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

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

(j) The amendments to this section made in the first year of the 1985–86 Regular Session apply to persons incarcerated before, as well as after, the effective date of those amendments.

SEC. 2. Section 3003 of the Penal Code is amended to read:

3003. (a) An inmate who is released on parole shall be returned to the county from which he or she was committed.

(b) Notwithstanding subdivision (a), an inmate may be returned to another county in a case where that would be in the best interests of the public and of the parolee. If the authority setting the conditions of parole decides on a return to another county, it shall place its reasons in writing in the parolee's permanent record. In making its decision, the authority may consider, among others, the following factors:

(1) The need to protect the life or safety of a victim, the parolee, a witness or any other person.

(2) Public concern that would reduce the chance that the inmate's parole would be successfully completed.

(3) The verified existence of a work offer, or an educational or vocational training program.

(4) The last legal residence of the inmate having been in another county.

(5) The existence of family in another county with whom the inmate has maintained strong ties and whose support would increase the chance that the inmate's parole would be successfully completed.

(6) The lack of necessary outpatient treatment programs for parolees receiving treatment pursuant to Section 2960.

(c) An inmate may be paroled to another state pursuant to any other provision of law.

SEC. 2.5. Notwithstanding any other provision of law, there shall be no prohibition or limitation on the placement in any state hospital by the Director of Mental Health of judicially committed persons or

of persons confined in a state hospital for purposes of mental health treatment pursuant to the Penal Code.

SEC. 2.75. The Legislature finds and declares that Department of Corrections prisoners subject to the provisions of this act are in a separate, distinct class from persons who have been committed by the State Department of Mental Health under the provisions of Section 1026 or 1370 of the Penal Code, or former Section 6316 of the Welfare and Institutions Code. Therefore, it is not intended that any provision of this act be construed in any way to effect the status of persons committed to the State Department of Mental Health under Section 1026 or 1370 of the Penal Code, or former Section 6316 of the Welfare and Institutions Code. Nor are the provisions of this act intended in any manner to affect decisional law interpreting those statutes.

SEC. 2.85. 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. Except as provided in paragraph (8) of subdivision (f) of Section 2960 of the Penal Code, this act shall become operative on July 1, 1986.

CHAPTER 1420

An act to add Section 11165.5 to the Penal Code, relating to crimes.

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

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

SECTION 1. Section 11165.5 is added to the Penal Code, to read:

11165.5. As used in Sections 11165 and 11166.5, "child care custodian," in addition to the persons specified therein, means an instructional aide, a teacher's aide, or a teacher's assistant employed by any public or private school, who has been trained in the duties imposed by this article, if the school district has so warranted to the State Department of Education. It also includes a classified employee of any public school who has been trained in the duties imposed by this article if the school has so warranted to the State Department of Education.

SEC. 2. School districts which do not train the employees specified in Section 11165.5 of the Penal Code in the duties of child care custodians under the child abuse reporting laws shall report to the State Department of Education the reasons why this training is

not provided.

SEC. 3. The Legislature declares that this act mandates a new program or higher level of service on local government. As required by Section 6 of Article XIII B of the California Constitution, 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. 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 1421

An act to amend Sections 39510 and 39512.5 of, and to repeal Section 39510.5 of, the Health and Safety Code, relating to air pollution.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 39510 of the Health and Safety Code is amended to read:

39510. (a) The State Air Resources Board is continued in existence in the Resources Agency. The state board shall consist of nine members.

(b) The members shall be appointed by the Governor with the consent of the Senate on the basis of their demonstrated interest and proven ability in the field of air pollution control and their understanding of the needs of the general public in connection with air pollution problems. Five members shall have the following qualifications:

(1) One member shall have training and experience in automotive engineering or closely related fields.

(2) One member shall have training and experience in chemistry, meteorology, or related scientific fields, including agriculture or law.

(3) One member shall be a physician and surgeon or an authority on health effects of air pollution.

(4) One member shall be a public member.

(5) One member shall have the qualifications specified in paragraph (1), (2), or (3) or shall have experience in the field of air

pollution control.

(c) Four members shall be board members from the districts. The members shall reflect the qualitative requirements of subdivision (b) to the extent practicable.

(1) Of these four members, one shall be a board member from the South Coast Air Quality Management District, one shall be a board member from the Bay Area Air Quality Management District, and one shall be a board member from the San Diego Air Pollution Control District.

(2) Of these four members, one shall be a board member of one of the other districts.

(d) Any vacancy shall be filled by the Governor within 30 days of the date on which it occurs. If the Governor fails to make an appointment for any vacancy within the 30-day period, the Senate Committee on Rules may make the appointments to fill the vacancy in accordance with this section.

(e) While serving on the state board, all members shall exercise their independent judgment as officers of the state on behalf of the interests of the entire state in furthering the purposes of this division. No member of the state board shall be precluded from voting or otherwise acting upon any matter solely because that member has voted or acted upon the matter in his or her capacity as a member of a district board, except that no member of the state board who is also a member of a district board shall participate in any action regarding his or her district taken by the state board pursuant to Sections 41503 to 41505, inclusive.

SEC. 2. Section 39510.5 of the Health and Safety Code is repealed.

SEC. 3. Section 39512.5 of the Health and Safety Code is amended to read:

39512.5. (a) With respect to the members appointed pursuant to subdivision (c) of Section 39510, those members shall serve without compensation but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties to the extent that reimbursement for expenses is not otherwise provided or payable by another public agency or agencies. Each elected public official member of the state board shall receive one hundred dollars ($100) for each day, or portion thereof, but not to exceed one thousand dollars ($1,000) in any month, attending meetings of the state board or committees thereof, or upon authorization of the state board while on official business of the state board.

(b) Reimbursements made pursuant to subdivision (a) shall be made by the district from which the person qualified for membership, except that the board member appointed pursuant to paragraph (2) of subdivision (c) of Section 39510 shall be reimbursed by the state board.

CHAPTER 1422

An act to amend Section 39510 of the Health and Safety Code, relating to the State Air Resources Board.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 39510 of the Health and Safety Code is amended to read:

39510. (a) The State Air Resources Board is continued in existence in the Resources Agency. The state board shall consist of nine members.

(b) The members shall be appointed by the Governor with the consent of the Senate on the basis of their demonstrated interest and proven ability in the field of air pollution control and their understanding of the needs of the general public in connection with air pollution problems. Five members shall have the following qualifications:

(1) One member shall have training and experience in automotive engineering or closely related fields.

(2) One member shall have training and experience in chemistry, meteorology, or related scientific fields, including agriculture or law.

(3) One member shall be a physician and surgeon or an authority on health effects of air pollution.

(4) One member shall be a public member.

(5) One member shall have the qualifications specified in paragraph (1), (2), or (3) or shall have experience in the field of air pollution control.

(c) Four members shall be board members from the districts. The members shall reflect the qualitative requirements of subdivision (b) to the extent practicable.

(1) Of these four members, one shall be a board member from the south coast district, one shall be a board member from the bay district, and one shall be a board member from the San Diego Air Pollution Control District.

(2) Of these four members, one shall be a board member of one of the other districts.

(d) Any vacancy shall be filled by the Governor within 30 days of the date on which it occurs. If the Governor fails to make an appointment for any vacancy within the 30-day period, the Senate Rules Committee may make the appointment to fill the vacancy in accordance with the provisions of this section.

(e) While serving on the state board, all members shall exercise their independent judgment as officers of the state on behalf of the interests of the entire state in furthering the purposes of this division. No member of the state board shall be precluded from voting or

otherwise acting upon any matter solely because that member has voted or acted upon the matter in his or her capacity as a member of a district board, except that no member of the state board who is also a member of a district board shall participate in any action regarding his or her district taken by the state board pursuant to Sections 41503 to 41505, inclusive.

CHAPTER 1423

An act to amend Section 24357.8 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 24357.8 of the Revenue and Taxation Code is amended to read:

24357.8. (a) In the case of a qualified research contribution, the amount otherwise allowed as a deduction under Section 24357, shall be reduced by that amount of the reduction provided by Section 24357.1 which is no greater than the sum of the following:

(1) One-half of the amount computed pursuant to Section 24357.1 (computed without regard to this paragraph).

(2) The amount (if any) by which the charitable contribution deduction under this section for any qualified research contribution (computed by taking into account the amount determined by paragraph (1), but without regard to this paragraph) exceeds twice the basis of the property.

(b) For purposes of this section, "qualified research contribution" means a charitable contribution by a taxpayer of tangible personal property described in paragraph (1) of Section 1221 of the Internal Revenue Code of 1954, but only if all of the following conditions are met:

(1) The contribution is to an educational organization which is described in subsection (b) (1) (A) (ii) of Section 170 of the Internal Revenue Code of 1954 and which is an institution of higher education (as defined in Section 3304 (f) of the Internal Revenue Code of 1954) in California.

(2) The contribution is made not later than two years after the date the construction of the property is substantially completed.

(3) The original use of the property is by the donee.

(4) The property is scientific equipment or apparatus substantially all of the use of which by the donee is for research or experimentation (within the meaning of Sections 24365 to 24368, inclusive), or for research training, in physical, applied, or biological sciences, or for instructional purposes.

(5) The property is not transferred by the donee in exchange for money, other property, or services.

(6) The taxpayer receives from the donee a written statement representing that its use and disposition of the property will be in accordance with this section, and with respect to property substantially all of the use of which is for instructional purposes, the taxpayer receives from the donee a written statement representing that the property will be used as an integral part of the instructional program. In the case of a computer, the statement shall also represent that the donee has acquired or will acquire, necessary basic operational software and the means to provide trained staff to utilize the property.

(7) The contribution is made on or after July 1, 1983, and on or before December 31, 1987.

(8) The taxpayer shall report to the Franchise Tax Board, on forms prescribed by the board, the name and address of the recipient educational organization, a description of the qualified charitable contribution, the fair market value of the contribution, and the date the contribution was made. The taxpayer shall forward a copy of the forms, along with the written statements prescribed in paragraph (6), to the following:

(1) The President of the University of California, in the case of contributions to institutions within the University of California system.

(2) California Postsecondary Education Commission, in the case of contributions to private institutions.

(3) The Chancellor of the California State University, in the case of contributions to institutions within the California State University system.

(4) The Chancellor of the California Community Colleges, in the case of contributions to institutions within the California Community College system.

(c) For purposes of this section, the term "taxpayer" shall not include a service organization (as defined in Section 414(m)(3) of the Internal Revenue Code of 1954).

SEC. 2. No later than February 1, 1987, the Legislative Analyst shall submit a report to the Legislature which evaluates the effect of Section 24357.8 of the Revenue and Taxation Code since its enactment.

The report shall address all of the following:

(a) The revenue loss to the state.

(b) The type and value of equipment contributed to educational organizations.

(c) The distribution of equipment by geographic region, by size of educational organization, and by any other appropriate indicator of the educational organizations' need for the equipment.

(d) The likely level of donations in 1988 and thereafter upon the elimination of the tax incentives provided by Section 24357.8 of the Revenue and Taxation Code.

In preparing the report prescribed by this section, the Legislative Analyst shall consult with the Franchise Tax Board, the President of the University of California, the Chancellor of the California State University, and the Chancellor of the California Community Colleges.

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 1424

An act to add Section 6359.4 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 6359.4 is added to the Revenue and Taxation Code, to read:

6359.4. Any vending machine operator is a consumer of, and shall not be considered a retailer of, food products which sell at retail for fifteen cents ($0.15) or less and which are actually sold through a vending machine.

SEC. 2. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any sales and use tax revenues lost by it under this act.

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, this act shall become operative on the first day of the first calendar quarter commencing more than 90 days after the effective date of this act.

CHAPTER 1425

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

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

I am reducing the appropriation contained in Section 1(a)(3) of Assembly Bill No. 2007 for the Department of Forestry from $21,893,000 to $10,893,000 I am approving the $10,893,000 appropriated for the Department of Forestry in order to meet the extraordinary fire suppression costs resulting from severe fires throughout the State

I believe that SB 1473 is the more appropriate bill to provide the $11,000,000 in funding because SB 1473 provides funding for specified costs associated with emergencies declared by the Governor, for which the Department of Forestry

qualifies. My action in this bill, combined with my action in SB 1473, will provide full funding for the Department of Forestry's fire suppression costs this fire season

I am also reducing this bill's appropriation by an additional $2,440,000 by eliminating the following appropriations in Section 1

(a) (1)	To various local agencies	$2,000,000
(a) (2)	To the Anderson Valley Community Service District	$15,000
(b)	To the County of Monterey for the purpose of conducting fishery restoration efforts at Lake San Antonio that will result from erosion and siltation occurring as a result of forest fires this year in the vicinity of the lake	$425,000

I am eliminating these amounts because it is unclear which state agency would be responsible for administrating claims and what costs would be reimbursable Also, SB 1473 is the more appropriate bill to address the issue of state reimbursement to local agencies for costs resulting from extraordinary fire seasons

With these reductions, I approve Assembly Bill No 2007

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. The sum of twenty-four million three hundred thirty-three thousand dollars ($24,333,000) is hereby appropriated from the Contingency Reserve for Economic Uncertainties, as provided in Section 12.30 of the Budget Act of 1985, as amended by Chapter 139 of the Statutes of 1985, in augmentation of Item 9840-001-001 of the Budget Act of 1985 for allocation by the Director of Finance to the following entities in accordance with the following schedule:

(a) To cover extraordinary costs incurred by the following entities in connection with the suppression of fires and other emergency services in connection with those fires:

(1)	To various local agencies	$2,000,000
(2)	To the Anderson Valley Community Service District	$15,000
(3)	To the Department of Forestry	$21,893,000
(b)	To the County of Monterey for the purpose of conducting fishery restoration efforts at Lake San Antonio that will result from erosion and siltation occurring as a result of forest fires this year in the vicinity of the lake	$425,000

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:

Extreme weather and other conditions have resulted in an unan-

ticipated number of severe fires throughout the state. In order to provide funds to various local agencies, including the Anderson Valley Community Services District, and to the State Department of Forestry for unexpected and extraordinary costs in connection with suppressing and providing other emergency services resulting from those fires and to provide funds for restoration of a fishery in Monterey County attributable to damage caused by fires as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 1426

An act to amend Section 15200 of the Welfare and Institutions Code, and to repeal Section 56.9 of Chapter 268 of the Statutes of 1984, relating to children, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

This bill extends the 95/5 AFDC-FC program sharing ratio to June 30, 1988 Extending the sharing ratio sunset date will provide the State and counties the opportunity to negotiate a more equitable sharing ratio for all programs in which the State and local government provide a share of the funding This includes the foster care program

Furthermore, in light of more recent data from the Child Welfare Services program, with respect to caseload and program trends, I am supporting an augmentation to this program However, given the fact that the 1985–86 fiscal year is over one-quarter complete and the counties will require some lead time to hire new staff, I am reducing the appropriation contained in the bill from $15 to $5 million I believe this amount represents a level that can reasonably be expended in the current year However, it is my intention to include full funding of the prior year cost-of-living increases for the Child Welfare Services program in my proposed 1986–87 Budget

With this reduction, I approve Assembly Bill No 454

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Section 15200 of the Welfare and Institutions Code, as amended by Section 56.7 of Chapter 268 of the Statutes of 1984, is amended to read:

15200. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated, and after deducting available federal funds, the following sums:

(a) To each county for the support and maintenance of needy children, 89.2 percent of the sums specified in subdivision (a), and paragraphs (1) and (2) of subdivision (e) of Section 11450.

(b) To each county for the support and maintenance of pregnant mothers, 89.2 percent of the sums specified in subdivisions (b) and (c) of Section 11450.

(c) To each county for the support and maintenance of needy children, 95 percent of the sum necessary for the adequate care of each child pursuant to subdivision (d) of Section 11450 for the period

July 1, 1979, to June 30, 1988.

(d) To each county for the support and care of hard-to-place adoptive children, 100 percent of the nonfederal share of the amount specified in Section 16121.

(e) This section shall remain in effect only until July 1, 1988, and as of that date is repealed, unless a later enacted statute which is chaptered before July 1, 1988, deletes or extends that date.

SEC. 2. Section 15200 of the Welfare and Institutions Code, as amended by Section 56.8 of Chapter 268 of the Statutes of 1984, is amended to read:

15200. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated, and after deducting federal funds available, the following sums:

(a) To each county for the support and maintenance of needy children, 89.2 percent of the sums specified in subdivision (a), and paragraphs (1) and (2) of subdivision (e), of Section 11450.

(b) To each county for the support and maintenance of pregnant mothers, 89.2 percent of the sum specified in subdivisions (b) and (c) of Section 11450.

(c) To each county for the adequate care of each child pursuant to subdivision (d) of Section 11450 the following amounts:

(1) The sum necessary for the adequate care of each child but not to exceed in any month the product of one hundred twenty dollars ($120) multiplied by the number of children in each county receiving foster care. The state shall pay 67.5 percent and the county shall pay 32.5 percent of the aid furnished for the adequate care of such children.

(2) The state shall reimburse counties for the nonfederal costs of providing an additional twelve dollars and fifty cents ($12.50) a month per eligible child to foster parents. In addition the state may, at its discretion, pay on a pro rata basis from funds specifically appropriated in the Budget Act additional aid for the adequate care of foster children receiving aid under subdivision (d) of Section 11450.

The financial benefit accruing from the additional funds available under this paragraph shall be passed on to foster parents in order to more adequately reimburse foster parents for their expense, and to enable counties to more readily recruit and retain a selection of homes suited to the diversified needs of the individual child, and the counties shall not substitute the additional state funds received under this paragraph for county funds being expended for foster care at the time when this section takes effect.

(d) To each county for the support and care of hard-to-place adoptive children, 100 percent of the nonfederal share of the amount specified in Section 16121.

(e) This section shall become operative on July 1, 1988.

SEC. 3. Section 56.9 of Chapter 268 of the Statutes of 1984 is repealed.

SEC. 4. In augmentation of Item 5180-181-001 (b) of Chapter 111

of the Statutes of 1985, there is hereby appropriated from the General Fund to the State Department of Social Services the sum of fifteen million dollars ($15,000,000) for allocation by the department for the provision of child welfare services, as provided for under Chapter 5 (commencing with Section 16500) of Part 4 of Division 9 of the Welfare and Institutions Code. It is the intent of the Legislature that this augmentation be provided in order to fund actual costs in the child welfare services program.

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

In order to ensure that abused and neglected children in this state can be appropriately protected as required under Chapter 978 of the Statutes of 1982, it is necessary that this act go into immediate effect.

CHAPTER 1427

An act relating to a study of a comprehensive service laboratory, and making an appropriation therefor.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

I am deleting the $387,700 appropriation contained in Section 4 of Assembly Bill No 791 for the California State University, Fresno to determine the feasibility of developing and implementing physical, chemical and biological processes for the removal of salts, selenium, and other trace elements from agricultural drain waters in the San Joaquin Valley

The 1985–86 State budget provides $5,071,000 in additional funding for selenium-related projects

I believe that this $5,071,000 program represents a comprehensive State response to the selenium problem in California, and that the proposal contained in this bill should be considered during the normal budgetary process when its merits can be fully reviewed In addition, I believe that California State University, Fresno, is not the appropriate State entity to conduct the program proposed by this bill, since the California State University system is not involved in these kinds of research projects

With this deletion, I approve Assembly Bill No 791

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. (a) The Department of Water Resources shall conduct a study to determine the feasibility of entering into an interagency agreement with an appropriate state educational institution to establish a comprehensive, multifunctional service laboratory to provide support for chemical analysis of water, soil, and air systems associated with agricultural activities in this state and which meets the criteria established by Section 2 of this act. The study shall take into consideration services provided by private laboratories in order to avoid duplication of effort.

SEC. 2. (a) The laboratory shall perform analyses on a

production basis and shall furnish reference samples for analytical quality control.

(b) Activities of the laboratory shall include performance of analyses to identify constituents of water, soil, and air samples collected by agencies and organizations seeking to remedy the effects of water, soil, and air contamination associated with irrigation and agricultural operations in the state. Services of the laboratory may be provided to other agencies and organizations requiring analytical services.

(c) The laboratory shall operate a joint analytical data exchange (JADE) project wherein a system shall be developed to establish and maintain a database of the analytical data generated by the laboratory. Similar analytical information from other sources shall be included, where possible, in the database. To minimize unnecessary duplication of effort, the database shall be thoroughly documented, and the documentation shall be publicly available to other agencies, universities, and data analysts. The project shall provide the necessary software and hardware to permit statistical, modeling, and other utilization of the database.

(d) The laboratory shall assess the economic and technological feasibility of alternative forms of physical (including biological means) water treatment methods and establish pilot-testing facilities using those technologies and methods which have potential for contributing to reduction of contaminant levels in agricultural and natural drainage waters.

(e) (1) The laboratory shall perform economic and agronomic analyses of alternative cropping and irrigation practices to identify cost-effective alternatives to reduced crop production. These analyses shall also be conducted to take into account the total economic effects of various cropping and irrigation alternatives.

(2) The analyses required by paragraph (1) shall include, but are not necessarily limited to, all of the following:

(A) Determining the cost-effectiveness associated with production of salt-tolerant crops under a variety of soil salinity conditions.

(B) Determining crop production implications and cost-effectiveness associated with drain water reuse.

(C) Assessment of the cost-effectiveness and utilization potential for surface and buried drip irrigation systems and for shallow-basin flood irrigation.

(f) The laboratory shall conduct a series of informational and educational programs aimed at improving the following:

(1) Public and propriety understanding of water management, water quality, and water resource protection problems associated with irrigated agriculture.

(2) Efficiency of water management techniques and irrigation technologies.

(3) Exchange of technical and scientific information among members of the scientific, technical, and agricultural communities.

SEC. 3. The Department of Water Resources shall submit its final report to the Legislature on or before January 1, 1987.

SEC. 4. The sum of three hundred eighty-seven thousand seven hundred dollars ($387,700) is hereby appropriated from the General Fund to the Department of Water Resources for allocation to California State University, Fresno, for purposes of a determination of the feasibility of developing and implementing specific physical, chemical, or biological processes, or any combination of those processes, for the removal of salts, selenium, and other trace elements from agricultural drain waters in the San Joaquin Valley.

CHAPTER 1428

An act to add Sections 4030.9 and 25351.8 to the Health and Safety Code, relating to hazardous substances, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

I am approving Senate Bill No 1063 but reducing the $26 million appropriation from the Contingency Reserve for Economic Uncertainties Account in the General Fund by $5 million As I stated in language added to the 1985 Budget Act, for many years we have been addressing the problems resulting from the dumping of toxic wastes at the Stringfellow disposal site in Riverside County It is recognized as one of the top priority toxic waste problems in the United States and will continue to be until the problem is fully corrected The appropriation of $16 million in this bill for Stringfellow represents the latest estimates of what the Department of Health Services can effectively spend during this next year for clean-up and mitigation efforts at the Stringfellow site

I am reducing the $26 million appropriation by $5 million I am eliminating the $3 6 million appropriated to the State Water Resources Control Board to accelerate the Underground Storage Tank program When the underground tank surveillance program was first established, the responsibility for oversight of clean-up activities was to be assumed by local governments The $3 6 million in this bill assumes the State will assume primary responsibility for oversight which is a significant policy change My staff is currently working with the Legislature and other interested parties to resolve the oversight concerns and therefore I believe it would be premature to provide an appropriation to the board in this area

I am also eliminating $1 million appropriated to the Department of Health Services to investigate water contamination in the New River located in Imperial County. Because the source of pollution is outside the United States, and solution alternatives will involve the investment of major resources as well as the cooperation and participation of both the Mexican and United States governments it is inappropriate for this State to unilaterally deal with these problems

With this reduction, I am approving Senate Bill No 1063

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Section 4030.9 is added to the Health and Safety Code, to read:

4030.9. (a) The Emergency Clean Water Grant Fund is hereby established in the General Fund and, notwithstanding Section 13340

of the Government Code, is continuously appropriated to the department, without regard to fiscal years, to provide financial assistance to public water systems and to fund emergency actions by the department to ensure that safe drinking water supplies are available to all Californians who are served by public water systems.

(b) The department may expend funds in the Emergency Clean Water Grant Fund for the purposes specified in subdivision (a), including, but not limited to, payment for all of the following actions:

(1) The provision of alternative water supplies and bottled water.

(2) Improvements of the existing water supply system.

(3) Hookups with adjacent water systems.

(4) Design, purchase, installation, and operation and maintenance of water treatment technologies.

(c) On or before March 15, 1986, the department shall submit to the Legislature a report containing guidelines for the allocation and administration of moneys in the Emergency Clean Water Grant Fund. These guidelines shall include, but are not limited to, all of the following:

(1) A definition of what constitutes an emergency requiring an alternative or improved water supply.

(2) Priorities and procedures for allocating funds.

(3) Repayment provisions, as appropriate.

(4) Procedures for recovering funds from parties responsible for the contamination of public water supplies.

The guidelines are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 2. Section 25351.8 is added to the Health and Safety Code, to read:

25351.8. (a) As part of its activities to monitor, assess, and evaluate the nature and extent of the hazardous substance release at the Stringfellow Quarry Class I Hazardous Waste Disposal Site and to conduct remedial and removal actions at the site, the department shall do all of the following:

(1) Determine the sources of the excess levels of radioactivity found in the groundwater in the area south of the Stringfellow site. The department shall identify the source and shall report to the Legislature on or before March 15, 1986, on its findings as to the levels of radioactivity, and the nature and direction of the spread of radioactivity. If the radioactive contamination is determined to be caused by the Stringfellow Acid Pits, the department shall reimburse the General Fund for expenditures pursuant to category (1) of subdivision (a) of Section 3 of the act enacting this section. This reimbursement shall be made from federal funds, the Hazardous Substance Account, or the Hazardous Substance Cleanup Fund.

(2) On or before March 15, 1986, identify and evaluate onsite techniques and methods that are capable of halting the spread of contaminants from the Stringfellow site.

(3) On or before March 15, 1986, establish a schedule for taking

remedial action at the Stringfellow site. The schedule shall include all of the following dates:

(A) A target date for fully and completely characterizing the site.

(B) A target date for completing preparation of a final remedial action plan for the site.

(C) A target date for entering into one or more contracts to carry out the remedial action plan for the site.

(D) A target date for completing an onsite system at the Stringfellow site that is capable of treating the hazardous substance and contaminated groundwater at, underneath, and near the Stringfellow site.

(4) On or before September 1, 1986, submit to the Legislature a status report on the latest results of the department's comprehensive health effects study of Stringfellow area residents.

(5) On or before March 15, 1985, commence hooking up residents of Glen Avon to an alternative safe water supply.

(6) On or before March 15, 1986, develop a plan that provides for an ongoing system to monitor for toxins from the site that could enter the Chino Basin.

(b) Notwithstanding any other provision of law, including, but not limited to, Sections 25334.5 and 25356, the department shall place the highest priority on taking removal and remedial actions at the Stringfellow Quarry Class I Hazardous Waste Disposal site and shall devote sufficient resources to accomplish the tasks required by this section. If the department does not complete the actions, determinations, or reports required by this section by the dates specified in subdivision (a), the department shall report to the Legislature on the reasons for the failure and shall specify the measures the department has taken to ensure prompt and full compliance with the requirements of this section.

(c) After the department completes each of the actions, determinations, or reports required by subdivision (a), the department shall promptly make the results of each action, determination, or report available to the public.

SEC. 3. The sum of twenty-six million dollars ($26,000,000) is hereby appropriated from the contingency reserve for economic uncertainties in the General Fund, as provided in Section 12.30 of the Budget Act of 1985 (Chapter 111, Statutes of 1985), as follows:

(a) Sixteen million dollars ($16,000,000) to State Department of Health Services for expenditure at the Stringfellow Acid Pits without regard to fiscal years in accordance with the following schedule:

Schedule:

(1) To provide a permanent alternative water supply to residents in Glen Avon who now receive bottled water from the state ..... $ 1,600,000

(2) To conduct a comprehensive health study of former and cur-

	rent residents near the Stringfellow Acid Pits to identify and assess both acute and chronic health problems that may be linked to contaminants from the Stringfellow site	$ 800,000
(3)	To establish a Special Stringfellow Reserve Account to be used by the department to fund special investigations and remedial or emergency actions that are necessary to fully protect the health of the residents near Stringfellow if the department determines that funds are not available from other sources including the federal Environmental Protection Agency, the responsible parties, the Hazardous Substance Account, and the Hazardous Substance Cleanup Fund	$13,600,000

(b) One million four hundred thousand dollars ($1,400,000) to the State Department of Health Services for expenditure without regard to fiscal years for the design, purchase, and installation of activated carbon absorption water treatment systems for the Rurban Homes and Richwood Mutual Water Companies and the expansion of the existing carbon treatment system for the Hemlock Mutual Water Company, except that the State Department of Health Services shall not expend the funds appropriated in this subdivision until the State Department of Health Services has entered into a written agreement with the federal Environmental Protection Agency in which the agency agrees to a schedule for reimbursing the state for a portion of design, purchase, and installation costs pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Sec. 9601 et seq.)

(c) Four million dollars ($4,000,000) to be transferred by the Controller to the Emergency Clean Water Grant Fund. This amount is available to the State Department of Health Services without regard to fiscal years, pursuant to Section 4030.9 of the Health and Safety Code, to take remedial action to ensure safe water supplies at public water systems where there is an imminent threat to public health due to contamination of the public water supply and for which the department determines that the situation would not otherwise be adequately addressed through an action funded by any other private, local, state, or federal agency or funding source, including the Hazardous Substance Account and the Hazardous Substance Cleanup Fund. Four hundred thou-

sand dollars ($400,000) shall be used to design, purchase, and install water filtration systems for nitrate removal for the McFarland Mutual Water Company.

(d) Three million six hundred thousand dollars ($3,600,000) to the State Water Resources Control Board to accelerate the cleanup of leaking underground storage tanks in accordance with the following schedule:

Schedule:	
(1) To expand cleanup efforts by the San Francisco Bay Regional Water Quality Control Board	$1,700,000
(2) To expand cleanup efforts by the Los Angeles Regional Water Quality Control Board	$ 800,000
(3) To expand cleanup efforts by the State Water Resources Control Board and the Los Angeles Regional Water Quality Control Board in the San Gabriel Valley	$ 450,000
(4) To expand statewide cleanup efforts in a manner determined to be most effective by the State Water Resources Control Board	$ 650,000

(e) One million dollars ($1,000,000) to the State Department of Health Services to conduct an investigation of contamination in the New River in Imperial County and to prepare a plan for remedial action.

SEC. 4. Upon installation of the carbon absorption water treatment systems funded in subdivision (b) of Section 3 of this act, the State Department of Health Services shall establish, pursuant to Section 25330.5 of the Health and Safety Code, a subaccount for site operation and maintenance for remedial measures affecting the San Gabriel Valley Superfund site, and shall deposit in the subaccount sufficient funds to cover the costs of operation and maintenance of the carbon absorption water treatment systems at the Richwood, Hemlock, and Rurban Homes Mutual Water Companies for 20 years. The funds shall be allocated from the Hazardous Substance Account or the Hazardous Substance Cleanup Fund.

SEC. 5. Effective June 30, 1987, any unencumbered balance in excess of five million dollars ($5,000,000) remaining in the Special Stringfellow Reserve Account established pursuant to Section 3 of this act shall revert to the General Fund.

SEC. 6. The State Department of Health Services shall submit an expenditure plan to the Legislature for the use of the funds appropriated in subdivisions (a) and (b) of Section 3 of this act at least 30 days before encumbering any of the funds. The notifica-

tion shall be made to the Chairperson of the Joint Legislative Committee on Superfund Oversight if Assembly Bill 129 of the 1985–86 Regular Session of the Legislature is enacted and becomes effective on or before January 1, 1986, and if Assembly Bill 129 establishes the Joint Legislative Committee on Superfund Oversight. If Assembly Bill 129 is not enacted and does not become effective on or before January 1, 1986, or if Assembly Bill 129 does not establish the Joint Legislative Committee on Superfund Oversight, the notification shall be made to the Chairperson of the Joint Legislative Budget Committee.

The notification shall provide complete documentation of each proposed expenditure, including:

(a) Purposes of the expenditure.

(b) Timetable for expenditure of funds and completion of proposed tasks.

(c) Whether the funds are for contracts, state staff, or operating expenses, and the amounts proposed for each contract or category of expense.

(d) Evaluation of alternative methods of meeting the purposes of the expenditure.

(e) Documentation of cost estimates.

(f) Information regarding the relationship between the proposed expenditure and other expenditures at the site.

(g) Explanation as to why the proposed funding source is appropriate and documentation of efforts to obtain federal, local, and other funds or resources and the support committed by these sources.

SEC. 7. It is the intent of the Legislature that the State Department of Health Services use, to the maximum extent feasible, all federal funds that may be available pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Sec. 9601, et seq.) funds secured from responsible parties, and funds appropriated to the Hazardous Substance Account and the Hazardous Substance Cleanup Fund for the activities required in this act. Furthermore, the Legislature declares that the appropriations made by subdivisions (a) and (b) of Section 3 of this act are necessary to ensure that vital health protection and cleanup activities are not delayed due to delays in the federal reauthorization of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

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 that grave threats to public health and safety caused by ground and surface waters contaminated by hazardous substances can be alleviated without further delay, it is necessary that this act take effect immediately.

CHAPTER 1429

An act to amend Sections 5651 and 5655 of the Fish and Game Code, and to amend Section 152 of the Harbors and Navigation Code, relating to oil spills, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 5651 of the Fish and Game Code is amended to read:

5651. Whenever it is determined by the department that a continuing and chronic condition of pollution exists, the department shall report that condition to the appropriate regional water quality control board, and shall cooperate with the board in obtaining correction or abatement in accordance with any laws administered by the board for the control of practices for sewage and industrial waste disposal.

SEC. 2. Section 5655 of the Fish and Game Code is amended to read:

5655. (a) In addition to the responsibilities imposed pursuant to Section 5651, the department may clean up or abate the effects of any petroleum or petroleum product deposited or discharged in the waters of this state or deposited or discharged in any location onshore or offshore where the petroleum or petroleum product is likely to enter the waters of this state, order any person responsible for the deposit or discharge to clean up the petroleum or petroleum product or abate the effects of the deposit or discharge, and recover any costs incurred as a result of the cleanup or abatement from the responsible party.

(b) No order shall be issued pursuant to this section for the cleanup or abatement of petroleum or petroleum products in any sump, pond, pit, or lagoon used in conjunction with crude oil production which is in compliance with all applicable state and federal laws and regulations.

(c) The department may issue an order pursuant to this section only if there is an imminent and substantial endangerment to human health or the environment and the order shall remain in effect only until any cleanup and abatement order is issued pursuant to Section 13304 of the Water Code. A regional water quality control board shall incorporate the department's order into the cleanup and abatement order issued pursuant to Section 13304 of the Water Code, unless the department's order is inconsistent with any more stringent requirement established in the cleanup and abatement order. Any action taken in compliance with the department's order is not a violation of any subsequent regional water quality control board

cleanup and abatement order issued pursuant to Section 13304 of the Water Code.

(d) All money recovered or received pursuant to this section shall be deposited in the Fish and Game Preservation Fund.

(e) For purposes of this section, "petroleum product" means oil in any kind or form, including, but not limited to, fuel oil, sludge, oil refuse, and oil mixed with waste other than dredged spoil. "Petroleum product" does not include any pesticide which has been applied for agricultural, commercial, or industrial purposes or has been applied in accordance with a cooperative agreement authorized by Section 2426 of the Health and Safety Code, which has not been discharged accidentally or for purposes of disposal, and whose application was in compliance with all applicable state and federal laws and regulations.

SEC. 3. Section 5655 of the Fish and Game Code is amended to read:

5655. (a) In addition to the responsibilities imposed pursuant to Section 5651, the department may clean up or abate, or cause to be cleaned up or abated, the effects of any petroleum or petroleum product deposited or discharged in the waters of this state or deposited or discharged in any location onshore or offshore where the petroleum or petroleum product is likely to enter the waters of this state, order any person responsible for the deposit or discharge to clean up the petroleum or petroleum product or abate the effects of the deposit or discharge, and recover any costs incurred as a result of the cleanup or abatement from the responsible party.

(b) No order shall be issued pursuant to this section for the cleanup or abatement of petroleum products in any sump, pond, pit, or lagoon used in conjunction with crude oil production which is in compliance with all applicable state and federal laws and regulations.

(c) The department may issue an order pursuant to this section only if there is an imminent and substantial endangerment to human health or the environment and the order shall remain in effect only until any cleanup and abatement order is issued pursuant to Section 13304 of the Water Code. A regional water quality control board shall incorporate the department's order into the cleanup and abatement order issued pursuant to Section 13304 of the Water Code, unless the department's order is inconsistent with any more stringent requirement established in the cleanup and abatement order. Any action taken in compliance with the department's order is not a violation of any subsequent regional water quality control board cleanup and abatement order issued pursuant to Section 13304 of the Water Code.

(d) All money recovered or received pursuant to this section shall be deposited in the Fish and Game Preservation Fund.

(e) For purposes of this section, "petroleum product" means oil in any kind or form, including, but not limited to, fuel oil, sludge, oil refuse, and oil mixed with waste other than dredged spoil. "Petroleum product" does not include any pesticide which has been

applied for agricultural, commercial, or industrial purposes or has been applied in accordance with a cooperative agreement authorized by Section 2426 of the Health and Safety Code, which has not been discharged accidentally or for purposes of disposal, and whose application was in compliance with all applicable state and federal laws and regulations.

SEC. 4. Section 152 of the Harbors and Navigation Code is amended to read:

152. All state agencies with cleanup or other responsibilities under the state oil spill contingency plan established pursuant to Article 3.5 (commencing with Section 8574.1) of Chapter 7 of Division 1 of Title 2 of the Government Code, shall perform their responsibilities under that plan under the direction of the chairperson, or his designee, of the State Interagency Oil Spill Committee. The state agency coordinator, as designated under the state oil spill contingency plan, shall cooperate with the federal on-scene coordinator to the maximum extent feasible. All state agencies responding to an oil spill, or any threat thereof, shall notify, in writing, the appropriate regional water quality control board of the nature of the spill, or threat thereof, and of the corrective action taken or contemplated.

SEC. 5. The Department of Fish and Game shall report to the Legislature and the Governor by July 1, 1988. The report shall contain the department's findings of the needs identified as a result of the research and studies provided in Section 7 and its recommendations of appropriate action to be taken in responding to the needs identified. The department's report shall also describe whether it has been successful in securing petroleum samples and cargo manifests, through the voluntary cooperation of the oil and gas and maritime industries, needed to implement the laboratory research authorized in paragraph (1) of subdivision (a) of Section 7 of this act.

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.

SEC. 7. (a) The sum of two million two hundred fifty thousand dollars ($2,250,000) is hereby appropriated from the Fish and Game Preservation Fund to the Department of Fish and Game for expenditure during the 1986–87, 1987–88, and 1988–89 fiscal years in the following amounts and for the following purposes:

(1) Three hundred fifty thousand dollars ($350,000) for laboratory and consultant contract costs incurred in obtaining, cataloging, storing, and examining petroleum samples and cargo manifests requested and received from owners and operators of vessels transporting petroleum or petroleum products in state waters.

(2) Five hundred thousand dollars ($500,000) for contracts for equipment, consultant services, and other services related to state agency oil spill response command, control, and communications; the cleaning of oiled birds and marine mammals; oil spill response personnel training and practice drills; other activities of state agencies associated with the cleanup and abatement of oil spills; the evaluation and assessment of the damage to wildlife and living marine resources from oil spills; and the biennial publication of a containment, cleanup, and damage evaluation and assessment manual for use by the State Interagency Oil Spill Committee and by any other governmental agency responding to an oil spill.

(3) One million two hundred fifty thousand dollars ($1,250,000) for consultant service contracts and for costs of surveys of existing research programs and any necessary additional research on the effects of chemical dispersants on wildlife and living marine resources; the periodic revision, in cooperation with the State Water Resources Control Board, of the list of licensed oil spill cleanup agents; and the biennial publication of an instructional manual which sets forth a decision process for approving the use of oil spill cleanup agents, a list of state-licensed oil spill cleanup agents, criteria for selecting those agents, and directions for applying those agents.

(4) One hundred fifty thousand dollars ($150,000) for consultant service contracts and costs incurred in compiling existing and producing new surveys and maps, in cooperation with the National Oceanic and Atmospheric Administration, the United States Minerals Management Service, and any other appropriate agency of the federal government and the maritime and oil and gas industries, of sensitive fish and wildlife habitat in, and immediately adjacent to, state waters that are particularly vulnerable to oil spills for the purpose of siting containment and cleanup equipment at locations near those habitat areas.

(b) This section shall become operative when and only if Senate Bill 959 of the 1985–86 Regular Session of the Legislature is enacted and allocates at least two million two hundred fifty thousand dollars ($2,250,000) to the Fish and Game Preservation Fund

SEC. 8. Section 3 of this bill incorporates amendments to Section 5655 of the Fish and Game Code proposed by both this bill and AB 1835. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1986, but this bill becomes operative first, (2) each bill amends Section 5655 of the Fish and Game Code, and (3) this bill is enacted after AB 1835, in which case Section 5655 of the Fish and Game Code, as amended by Section 2 of this bill, shall remain operative only until the operative date of AB 1835, at which time Section 3 of this bill shall become operative.

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:

It is essential that, as soon as possible, the Department of Fish and

Game, which chairs the state's Interagency Oil Spill Committee, be provided with authority to clean up and abate oil spills in state waters and that a Fish and Game Department oil spill response program be established, using federal offshore oil revenues which the state is about to receive. In the absence of immediate enactment of this bill, there is no assurance that the state will have adequate authority or financial resources to respond to an oil spill such as the Puerto Rican spill which recently occurred near San Francisco Bay. It is thus necessary that this act take effect immediately.

CHAPTER 1430

An act to add Article 10 (commencing with Section 54250) to Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code, and to add Sections 10013 and 10014 to the Public Utilities Code, relating to water pollution control.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. The Legislature finds and declares the following:

(a) The Legislature recognizes that federal grant money for constructing and improving local wastewater and sewerage systems has sharply declined during the last several years. Because current levels of federal and state grant funding are inadequate, an additional two billion dollars ($2,000,000,000) is needed in California to meet current clean water goals. Consequently, alternative methods of financing the construction, operation, and improvement of wastewater and sewerage systems must be developed and encouraged.

(b) The Governor's Infrastructure Review Task Force report of April 1984 identified one alternative method of financing needed wastewater treatment systems, called privatization.

(c) The Legislature has authorized the City of Norco, Riverside County, to enter into a privatization project for the provision of wastewater and sewerage services and has exempted the project from the jurisdiction of the Public Utilities Commission, as provided in Chapter 1112 of the Statutes of 1984, effective September 13, 1984. In granting this exemption, the Legislature recognized that there were unique and compelling circumstances applicable solely to the City of Norco that would not be generally applicable statewide and did not intend for this specific exemption to set a precedent for any future privatization projects of a similar type.

(d) In order to become a feasible alternative, privatization must be capable of meeting the public's need for reliable, quality service at a cost equal to, or lower than, it could obtain with conventional

financing.

(e) Notwithstanding Chapter 1112 of the Statutes of 1984, it is in the public interest to ensure that any future contracts entered into by a local agency with any corporation, partnership, or person for the provision of wastewater or sewerage services minimize construction, financing, and operating risks to the local agency, and that the public receive the same reliable quality of service that it would have received if the facility were publicly owned and operated.

SEC. 2. Section 10013 is added to the Public Utilities Code, to read:

10013. (a) Prior to signing an executed franchise, license, or service agreement with a local agency, a privatizer shall apply to the commission for a determination that the proposed privatization project is not a public utility within the meaning of Section 216 and is therefore exempt from commission regulation. When a privatizer files an application with the commission, the privatizer shall include the information the commission requires to make a determination in accordance with subdivisions (b), (c), (d), and (e).

(b) (1) Not later than 30 calendar days after the privatizer submits its application to the commission, the commission shall determine in writing whether the application is complete and shall immediately transmit the determination to the privatizer.

(2) If the application is determined not to be complete, the commission shall specify in writing those parts of the application which are incomplete and shall indicate the manner in which it can be made complete, including a list and thorough description of the specific information needed to complete the application. The applicant shall submit materials to the commission in response to the list and description. Upon resubmittal of the application, a new 30-calendar-day period shall begin, during which the commission shall determine the completeness of the application.

(3) If the application is deemed complete, the commission may determine not later than 30 calendar days after the application is deemed complete that the privatization project is not a public utility within the meaning of Section 216 and is therefore exempt from commission regulation, if the commission finds that the application clearly complies with the criteria in subdivisions (d) and (e). If the commission does not make this finding, then it shall proceed under the schedule established in subdivision (c).

(4) If the commission fails to make a written determination as to the completeness of the application within 30 calendar days after receipt of the original or resubmitted application, the application shall be deemed complete for purposes of this section.

(c) Within 90 calendar days after the application is deemed complete, the commission shall determine whether the privatization project is a public utility within the meaning of Section 216 using the criteria in subdivisions (d) and (e). The commission may hold a hearing on the matter if the commission finds it to be necessary. If the commission takes no action within that time period, the project

shall be deemed exempt from commission regulation. No franchise, license, or service agreement between a privatizer and a local agency shall be entered into until the commission has either exempted the project or the 90-calendar-day period has expired, whichever comes first. Nothing in this section precludes a privatizer and the commission from mutually agreeing to a further extension of any time limit provided in this section.

(d) The commission may determine that a privatization project is not a public utility within the meaning of Section 216, and is therefore exempt from commission regulation if it finds that the application submitted and any subsequent changes to the executed franchise, license, or service agreement both demonstrates that the local agency retains sufficient jurisdiction to protect the public interest and adequately addresses all aspects of the provision of service which would otherwise be subject to commission regulation. In making its determination, the commission shall not determine whether the local agency has complied with Section 54253 of the Government Code. The decision of the commission shall be final and conclusive in the absence of any subsequent changes.

(e) In making a determination pursuant to subdivision (c), the commission shall review the application and any subsequent changes to the executed franchise, license, or service agreement to ensure that the application or executed agreement, where applicable, grants the local agency, at a minimum, all of the following:

(1) Exclusive authority to establish all rates and rate changes charged to the public.

(2) Approval over any proposal of the privatizer to provide new, additional, or alternative service to any other public or private entity or to change the service fee paid to the privatizer by the local agency.

(3) Approval over the original design and construction of the project, including any changes in design, alterations, or additions to the project.

(4) Approval over any changes in ownership of the party or parties subject to the franchise, license, or service agreement.

(5) Authority to impose fines and penalties for noncompliance with any provision of the executed franchise, license, or service agreement, or for failure to provide the service within the time period agreed to in the franchise, license, or service agreement.

(6) Authority to ensure that the facility is adequately maintained.

(7) Adequate opportunity to monitor compliance with the agreement and to ensure the project will be operated to meet any applicable federal or state water quality standards or other applicable laws.

(8) Adequate opportunity to amend the agreement in the event of unforeseen circumstances or contingencies, such as flood, earthquake, fire, or other natural disasters or federal tax law changes.

(f) The commission may adopt whatever procedures it deems necessary to carry out the provisions of subdivisions (a), (b), (c), (d), and (e). The commission shall adopt regulations for reviewing any

proposed changes to an executed franchise, license, or service agreement to determine if the proposed changes could render the project a public utility within the meaning of Section 216. The commission shall charge each privatizer submitting an application pursuant to this section a fee which will be sufficient to defray the costs incurred in processing the application and rendering a decision upon it.

(g) As used in this section, "privatization project" means any wastewater or sewerage project that is owned and operated by a privatizer pursuant to a franchise, license, or service agreement with a local agency, or any agency of that local agency, pursuant to which services are supplied for the benefit of the local agency, its residents, or both, or any agency of the state. "Project" includes, but is not limited to, financing, designing, constructing, repairing, replacing, maintaining, and operating collector systems, pumping stations, treatment plants, and lateral interceptors, and outfall sewers. "Local agency" means any city, county, city and county, special district, or county service area. "Privatizer" means any corporation, partnership, or natural person, excluding municipal corporations, which owns and operates a wastewater or sewerage project pursuant to a franchise, license, or service agreement with a local agency. "Privatization project," as used in this section, includes the Santa Ana Watershed Project Authority's Arlington Basin Groundwater Desalter Project, which will treat groundwater contaminated by wastewater.

SEC. 3. Section 10014 is added to the Public Utilities Code, to read:

10014. The commission may enter into a contract with a local agency to provide any technical assistance needed to comply with Section 10013, if the contract includes provisions for the commission to be reimbursed for its estimated reasonable costs.

SEC. 4. Article 10 (commencing with Section 54250) is added to Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code, to read:

Article 10. The Local Government Privatization Act of 1985

54250. The following definitions shall control the construction of this article:

(a) "Local agency" means any city, county, city and county, special district, or county service area.

(b) "Commission" means the Public Utilities Commission.

(c) "Privatization project" means any wastewater or sewerage project that is owned and operated by a corporation, partnership, or natural person pursuant to a franchise, license, or service agreement with a local agency or any agency of that local agency pursuant to which services are supplied for the benefit of the local agency, its residents, or both, or any agency of the state. "Privatization project," as used in this article, includes the Santa Ana Watershed Project

Authority's Arlington Basin Groundwater Desalter Project, which will treat groundwater contaminated by wastewater.

(d) "Project" includes, but is not limited to, financing, designing, constructing, repairing, replacing, maintaining, and operating collector systems, pumping stations, treatment plants, and lateral interceptors, and outfall sewers.

(e) "Privatizer" means any corporation, partnership, or natural person, excluding municipal corporations, which owns and operates a wastewater or sewerage project pursuant to a franchise, license, or service agreement with a local agency.

54251. (a) A local agency may, pursuant to this article, authorize, grant, or enter into one or more exclusive or nonexclusive franchise, license, or service agreements with a privatizer for the design, ownership, financing, construction, maintenance, or operation of a privatization project.

(b) A local agency may enact any measures necessary and convenient to carry out this article.

(c) Notwithstanding Section 25210.77b, within a county service area, a county may fix a charge in excess of ten dollars ($10) for each acre of land, or ten dollars ($10) for each parcel of land of less than one acre for sewer standby charges subject to a privatization project pursuant to this article.

54252. (a) In accordance with Section 10013 of the Public Utilities Code, prior to signing an executed franchise, license, or service agreement with a local agency, a privatizer shall apply to the commission for a determination that the proposed privatization project is not a public utility within the meaning of Section 216 of the Public Utilities Code and is therefore exempt from commission regulation. The application shall include such information as the commission requires to make this determination, as well as any information needed to comply with subdivisions (d) and (e) of Section 10013 of the Public Utilities Code.

(b) A local agency may contract with the commission for any technical assistance deemed necessary to comply with Section 10013 of the Public Utilities Code and shall reimburse the commission for estimated reasonable costs. The local agency may charge the privatizer a fee to pay these costs.

54253. No franchise, license, or service agreement for a privatization project pursuant to this article shall be entered into between a local agency and a privatizer, unless and until all of the following occur:

(a) The privatizer has filed an application with the commission and the commission has made a determination that the project is exempt pursuant to subdivision (c) of Section 10013 of the Public Utilities Code.

(b) The local agency has selected the privatizer through a competitive procedure which is not based solely on the price offered by the privatizer.

(c) The local agency has evaluated the project's design, capacity,

financial feasibility, and cost compared with other conventional financing methods, as well as other alternatives to the project and found that the project's costs will be equal to, or lower than, conventional financing.

(d) The local agency has conducted a noticed public hearing on the proposed franchise, license, or service agreement. The notice for the public hearing shall be published pursuant to Section 6062 and shall contain, at a minimum, all of the following:

(1) A statement that the privatizer has applied for an exemption from commission regulation, pursuant to Section 10013 of the Public Utilities Code.

(2) A statement describing the proposed privatization project, including its cost and service area.

(3) A statement of the time and place of the public hearing to be held for the purpose of hearing public comments on the proposed franchise, license, or service agreement for the privatization project.

(4) A statement of where and when the proposed franchise, license, or service agreement will be available for public inspection prior to the hearing.

(e) The local agency has adopted the executed franchise, license, or service agreement for a privatization project by ordinance which states that it is subject to the provisions for referendum applicable to a local agency.

(f) The local agency retains ownership over any treated effluent from the privatization project that is not consigned to an outfall sewer but is made available for commercial or agricultural use.

(g) The agreement contains provisions stating it shall be subject to the state's prevailing wage laws.

(h) The local agency has met and conferred with all affected employee organizations under whose jurisdiction the work or service proposed under the franchise, license, or service agreement would normally be performed. The local agency shall make all reasonable efforts to avoid reducing its existing work force or demoting its existing employees as a result of entering into the franchise, license, or service agreement. If any adverse impacts which are raised by either party during the meet and confer process are necessary, the local agency shall adopt by resolution detailed findings explaining the necessity for the adverse impacts.

(i) The local agency finds that the privatizer has the expertise to ensure the continued operation and maintenance of the privatization project. This expertise shall include, but not be limited to, an adequate number of personnel certified in wastewater treatment plant operations pursuant to Chapter 9 (commencing with Section 13625) of Division 7 of the Water Code.

(j) The agreement contains provisions to ensure that the privatization project is operated to meet any applicable federal or state water quality standards or other laws.

54254. A local agency's compliance with Section 54253 shall constitute compliance with Division 3 (commencing with Section

6001) of the Public Utilities Code.

54255. (a) Any ordinance subject to referendum under Section 54253 shall be published after adoption as required by law for ordinances of the local agency generally, or, if there is no requirement applicable to the ordinance, then once pursuant to the provisions of Sections 6040 through 6044 within 15 days after the adoption of the ordinance.

(b) If a local agency does not otherwise have statutory power to enact an ordinance pursuant to Section 54253, the governing body of the local agency may introduce and enact an ordinance at any regular or adjourned regular meeting by a majority vote of all of its members. If ordinances of a local agency are not otherwise subject to referendum, then the local agency may proceed as follows:

(1) The governing body of the local agency may refer any ordinance enacted pursuant to Section 54253 to the electors of the local agency in the same manner as the board of supervisors of a county may refer county questions pursuant to Section 3750 of the Elections Code.

(2) The electors of the local agency shall have the right to petition for referendum on the ordinance in the same manner and subject to the same rules as are set forth in Sections 3751 to 3754, inclusive, of the Elections Code, except that all computations referred to in those sections and officers of the county mentioned in those sections shall be construed to refer to comparable computations and officers of the local agency.

(c) If the governing board of a local agency is an elected board, the electors of the local agency for the purposes of this section shall be the electors of the territory entitled to vote at elections for members of the governing board or in the case of county service area, the electors within the county service area. If a local agency does not have an elected governing board, the electors residing within the boundaries of the local agency who would be qualified to vote for candidates for Governor at any gubernatorial election shall be the electors of the local agency for the purposes of this section.

54256. In the event an ordinance enacted pursuant to Section 54253 authorizing a local agency to enter into a privatization project agreement is subjected to a successful referendum election, no ordinance authorizing the local agency to enter into a franchise, license, or service agreement for the same or substantially the same purpose shall be passed by that local agency for a period of one year from the date of the referendum, repeal, or rescission.

CHAPTER 1431

An act to add Article 6 (commencing with Section 52890) to Chapter 12 of Part 28 of, to add Article 6 (commencing with Section 54720) to Chapter 9 of Part 29 of, to add and repeal Article 7 (commencing with Section 52900) of Chapter 12 of Part 28 of, and to add and repeal Chapter 3.5 (commencing with Section 58550) to Part 31 of, the Education Code, relating to education, and making an appropriation therefor.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Article 6 (commencing with Section 52890) is added to Chapter 12 of Part 28 of the Education Code, to read:

Article 6. Outreach Consultants

52890. Each school district and school that submits a school-based motivation and maintenance program plan pursuant to Article 6 (commencing with Section 54720) of Chapter 9 of Part 29 shall include in the plan a description of the manner in which it will utilize outreach consultants. For purposes of this article, each outreach consultant, at a minimum, shall:

(a) Be knowledgeable of local alternative educational programs that are available to respond to the differential needs and unique learning styles of pupils.

(b) Be knowledgeable of local community agencies and community programs that are available to assist in the physical or psychological remediation of pupils.

(c) Be knowledgeable of local school programs, options, and opportunities that are available to assist pupils in locating, securing, or retaining employment.

(d) Be knowledgeable of techniques that enhance interpersonal communication, self-understanding, self-disclosure, and depth-level sharing.

(e) Be knowledgeable of methods to create circumstances necessary so that change is permitted and encouraged in individuals, programs, and institutions.

(f) Be capable of supervising, instructing, conducting negotiations with, and advising pupils and adults.

SEC. 2. Article 7 (commencing with Section 52900) is added to Chapter 12 of Part 28 of the Education Code, to read:

Article 7. Alternative Education and Work Centers for School Dropouts

52900. A school district participating in a program established pursuant to this chapter may also establish an alternative education and work center for school dropouts. An alternative education and work center may be established at a continuation high school or adult school, or the district may contract with a private nonprofit community-based organization to provide the center. An alternative education and work center shall do all of the following:

(a) Teach basic academic skills, with emphasis on the improvement of student motivation for achievement in order to obtain employment or to return to the regular high school.

(b) Operate on a clinical, client-centered basis, including, but not limited to, diagnosis of educational abilities, determination and setting of individual goals, prescribing and providing individual courses of instruction, and evaluating each pupil's progress in his or her educational program.

(c) Provide programs to include, but not be limited to, all of the following:

(1) A combination of classroom instruction and on-the-job training.

(2) Instruction in practical work values and specific vocational skills that reflect labor market demand.

(3) A strong partnership with labor, business, and industry.

(4) Career counseling and placement services.

52901. Programs established under this article shall, to the maximum extent feasible, do all of the following:

(a) Utilize the resources and expertise of community-based organizations that deal with youth and young adults.

(b) Obtain the active involvement of parents, whenever appropriate, in programs and services for dropouts.

52902. The Superintendent of Public Instruction shall do all of the following:

(a) Publish guidelines to assist alternative education and work centers in the development and implementation of these programs.

(b) Train site personnel in the establishment and effective use of prevention and recovery programs.

(c) Establish within the State Department of Education a clearinghouse for information regarding successful programs and strategies for the identification, prevention, and recovery of school dropouts.

(d) Actively disseminate information regarding the demonstration programs established pursuant to this chapter, to school districts.

(e) Monitor the quality and effectiveness of the programs established pursuant to this article, as set forth in Section 52886.

(f) Report to the Legislature regarding the effectiveness of the programs established pursuant to this article. The initial report to the

Legislature shall be submitted on or before January 1, 1988, and the final report to the Legislature shall be submitted on or before January 1, 1989. The report shall include, but not be limited to, all of the following information:

(1) The reduction in truancy and dropout rates.

(2) The number of school dropouts who return to school or alternative education and work centers.

(3) The number of youths who obtain employment as a result of training received in programs established pursuant to this chapter.

(4) The extent to which the programs have been replicated in other schools throughout the state.

(g) The State Department of Education shall provide for the evaluation of these programs.

52903. (a) A school district that intends to establish an alternative education and work center pursuant to Section 52900 shall be eligible to receive a planning and development grant of up to eight thousand dollars ($8,000). These funds shall be used to develop a program that meets the requirements of Section 52900 including, but not limited to, the following:

(1) Provisions for outreach activities and the recruitment of school dropouts into the program.

(2) A plan that integrates and coordinates the skills and talents of the outreach consultant required under Section 52890.

(b) The Superintendent of Public Instruction shall submit a report to the Joint Legislative Budget Committee and the Department of Finance on or before March 1, 1986, regarding the implementation of this section.

52904. This article shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is chaptered on or before January 1, 1990, deletes or extends that date.

SEC. 3. Article 6 (commencing with Section 54720) is added to Chapter 9 of Part 29 of the Education Code, to read:

Article 6. School-Based Pupil Motivation and Maintenance Program and Dropout Recovery Act

54720. The Legislature finds that there is an increasing percentage of pupils in school who are in danger of not satisfactorily completing a high school diploma program, or its equivalent, and that these pupils will face additional dangers due to inadequate academic, job, and social competencies.

The Legislature further finds that the characteristics of high-risk pupils are well documented and consist of, but are not limited to, the following school-related factors: absenteeism, truancy, and frequent tardiness; poor grades; low math and reading scores; failure in one or more grades; limited extracurricular participation; lack of identification with the school; failure to see the relevance of education to life experience; boredom with school; disruptive

behavior and rebellious attitudes toward authority; verbal and language deficiencies; and inability to tolerate structured activities.

The Legislature further finds that all youth are entitled to an opportunity for a free education at public expense that culminates in a high school diploma or its equivalent.

The Legislature further finds that there are numerous educationally sound programs, practices, and interventions for alleviating school-related factors for high-risk pupils.

The Legislature also finds and declares that it has established many categorical, optional, and alternative programs to address the needs of high-risk pupils and that provisions to waive those statutes or regulations for purposes of maximizing resources and coordinating programs already exist.

In recognition of the fact that all youth are entitled to a free public education culminating in a high school diploma, or its equivalent, and that a high percentage of California's youth are in danger of not reaching that goal, it is the intent of the Legislature to increase the student holding power of schools through the effective coordination and promotion of existing categorical and apportionment programs, and to increase student holding power generated through improved attendance and increases in apportionment revenues. Many schools which serve a disproportionate number of high-risk youth are unable, because of the immediate problem of inadequate revenues, to retain acceptable percentages of their pupils.

It is the intent of the Legislature to provide greater flexibility for schools and school districts to better coordinate the categorical funds and optional apportionment programs while ensuring that schools continue to receive categorical funds and optional apportionments to meet their needs.

It is further the intent of the Legislature to focus the authority to exercise that flexibility at the school level, with the approval and under the policy direction of, the governing board.

The Legislature further intends to provide supplemental revenue to those schools to improve programs and increase school motivation and maintenance and dropout recovery programs, thereby placing financially disadvantaged schools in a position eventually to generate adequate revenue from existing apportionment programs.

54721. Unless the context otherwise requires, the definitions in this section shall govern the construction of this article.

(a) "Motivation and maintenance" means the ability of schools to provide a high quality curriculum and programs of instruction that will keep pupils in school and reduce pupil absenteeism, truancy, tardiness, and school dropout rates.

(b) "Retention rate" means the percentage of time schools hold pupils. If a pupil enrolled in a school attends each class period or day of instruction, that school's retention rate would be 100 percent.

(c) "High-risk pupils" are those pupils who are susceptible to frequent absenteeism, truancy, or tardiness, or who have the potential to dropout from school for, among other factors, pregnancy

or marriage, financial needs, dislike of school, classes, or teachers, lack of basic skills, disciplinary problems, low self-esteem, emotional or physical problems, or feelings of alienation.

(d) "Outreach consultant" means a person knowledgeable about school programs and operations, community agencies and resources, and business and employment opportunities who is capable of coordinating these systems and resources to support the needs of high-risk pupils.

(e) "Dropout rate" means the percentage of pupils enrolled in any of grades 7 to 12, inclusive, who stop attending school prior to graduation from high school and who do not request, within 45 school days of leaving school, that their academic records be forwarded to another school.

54722. The provisions of this article shall apply only to school districts and schools which participate in school motivation and maintenance programs pursuant to this article. No school may operate pursuant to this article unless an application to operate a school motivation and maintenance program has been submitted and approved by the Superintendent of Public Instruction, and unless a newly developed plan or a revision of the previously approved plan has been approved by the local governing board and is retained at the school site. These plans shall be available to the Superintendent of Public Instruction upon request and shall be made available to the public on a reasonable basis pursuant to the provisions of the California Public Records Act, Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.

For purposes of this article, wherever appropriate, the provisions of Article 3 (commencing with Section 52850) and Article 5 (commencing with Section 52885) of Chapter 12 of Part 28 shall apply.

54723. (a) A school district on behalf of a school may apply to use funds or generate and expend apportionments allocated pursuant to Article 8 (commencing with Section 8240) of Chapter 2 of Part 6, Article 4 (commencing with Section 8750) of Chapter 4 of Part 6, Article 5 (commencing with Section 44520) of Chapter 3 and Article 1 (commencing with Section 44670) of Chapter 3.1 of Part 25, Article 1 (commencing with Section 48400) and Article 3 (commencing with Section 48430) of Chapter 3 of Part 27, Article 2 (commencing with Section 48630) and Article 3 (commencing with Section 48650) of Chapter 4 of Part 27, Article 5.5 (commencing with Section 51745) and Article 7 (commencing with Section 51760) of Chapter 5 of Part 28, Article 15 (commencing with Section 51870) of Chapter 5, Chapter 6 (commencing with Section 52000), Chapter 8 (commencing with Section 52200), Article 1 (commencing with Section 52300) and Article 2 (commencing with Section 52340) of Chapter 9 of this part, Article 1 (commencing with Section 52500) and Article 6 (commencing with Section 52610) of Chapter 10 of Part 28, Chapter 1 (commencing with Section 54000) and Chapter 2

(commencing with Section 54100) of Part 29, and Part 30 (commencing with Section 56000), and Chapter 1 (commencing with Section 500) of Part 2 of Division 2 of the Military and Veterans Code, without complying with the provisions of those statutes or the related California Administrative Code regulations, provided that the school and school district meet the criteria established in this article.

(b) In no event shall subdivision (a) be construed to include bilingual education programs established pursuant to Article 3 (commencing with Section 52160) of Chapter 7 within the provisions of this article.

54724. A school site council shall be established at each school that participates in motivation and maintenance programs. The council shall be composed of the principal and representatives of: teachers selected by teachers at the school; other school personnel selected by other school personnel at the school; parents of pupils attending the school selected by the parents; and, in secondary schools, pupils selected by pupils attending the school.

At the elementary level, the council shall be constituted to ensure parity between (a) the principal, classroom teachers and other school personnel; and (b) parents or other community members selected by parents.

At the secondary level, the council shall be constituted to ensure parity between (a) the principal, classroom teachers and other school personnel; and (b) equal numbers of parents and pupils.

At both the elementary and secondary levels, classroom teachers shall comprise the majority of persons represented under category (a).

Existing schoolwide advisory groups or school support groups may be utilized as the school site council if the groups conform to the provisions of this section.

The Superintendent of Public Instruction shall provide several examples of selection and replacement procedures that may be considered by school site councils.

54725. The governing board of each school district shall do all of the following:

(a) Ensure that the principal of each school receives information covering the provisions of this article, and provides that information to teachers, other school personnel, parents, and, in secondary schools, pupils.

(b) Adopt policies to ensure that, prior to a school beginning to develop a plan pursuant to Section 54726, a school site council, as described in Section 54724, is established at the school site to consider whether or not it wishes the local school to participate in school-based motivation and maintenance program. The board shall ensure that all interested persons, including, but not limited to, the principal, teachers, other school personnel, parents, and, in secondary schools, pupils have an opportunity to meet in public to establish the council.

(c) Ensure that funds coordinated pursuant to this article are used to supplement, not supplant, existing state and local fiscal efforts.

54726. For school-based motivation and maintenance programs, the school site council shall develop a school plan for increasing the retention rate of the school for all pupils with special emphasis on the needs of high-risk pupils. For schools establishing school-based motivation and maintenance programs, the plan shall include, but need not be limited to, all of the following:

(a) A staff development program for teachers, other school personnel, paraprofessionals, and volunteers, including those participating in special programs.

(b) Provisions for the utilization of the student study team process to identify and assess the needs of pupils who are dropouts or potential dropouts, and to develop programs to meet the needs of those pupils. Each student study team shall include all of the following:

(1) Students identified as dropouts or potential dropouts wherever appropriate.

(2) The pupil's parents or guardians.

(3) One of the pupil's teachers or, in the case of a school dropout, a teacher who would have provided instruction to the pupil if he or she were still attending school.

(4) The school principal or the principal's designee.

(5) Other appropriate resource teachers or specialists.

(6) Whenever appropriate, representatives of public or private community organizations, law enforcement agencies, or business and industry.

(c) Procedures for coordinating services from funding sources at the school level to assist pupils to participate successfully in the core academic curricula and specialized curricula related to jobs and career opportunities.

(d) Instructional and auxiliary services to meet the special needs of pupils identified as being at high risk of not succeeding in the regular school program or dropping out of school, non-English-speaking or limited-English-speaking pupils, including instruction in a language these pupils understand; educationally disadvantaged pupils; gifted and talented pupils; and pupils with exceptional needs.

(e) At the elementary school level, provisions for early identification and intervention to address learning problems including, but not limited to, the assessment of primary grade pupils to identify and commence remediation of developmental and other learning difficulties.

(f) An emphasis on literacy and basic skills development.

(g) An emphasis on curriculum content and teaching strategies that are relevant to job or career opportunities.

(h) A plan that integrates and coordinates the skills and talents of outreach consultants.

(i) Other activities and objectives established by the council.

(j) The proposed expenditure of funds available to the school through the programs described in Section 54723 and other available funds.

The school site council shall annually review the school plan, establish a new budget, and, if necessary, make other modifications in the plan to reflect changing needs and priorities.

54727. Any governing board, on behalf of a school site council, may request the State Board of Education to grant a waiver of any provision of this article. The State Board of Education may grant a request when it finds that the failure to do so would hinder the implementation or maintenance of a successful school-based coordinated program or pupil motivation and maintenance program.

If the State Board of Education approves a waiver request, the waiver shall apply only to the school or schools that requested the waiver and shall be effective for no more than two years. The State Board of Education may renew a waiver request.

54728. If a school district and school choose to include within the provisions of this article funds allocated pursuant to Article 1 (commencing with Section 52300) of Chapter 9, the school district shall use those funds exclusively for preparing individuals for employment.

54729. If a school district and school choose to include within the provisions of this article the authority to conduct work experience education pursuant to Article 1 (commencing with Section 46300) of Chapter 3 of Part 26, and Article 7 (commencing with Section 51760) of Chapter 5 of this part, the school district may conduct work experience education programs that do not meet the minimum day requirement established in Section 46144, except that the district plan and pupil-teacher ratio requirement established in Section 46300 shall be maintained, including related classroom instruction provided pursuant to Section 51760.3.

54730. If a school district and school choose to include within the provisions of this article funds allocated pursuant to Article 1 (commencing with Section 52500) and Article 6 (commencing with Section 52610) of Chapter 10 of Part 28, the school district shall use these funds only for any of the adult education purposes indicated in Section 41976.

54731. If a school district and school choose to include with the provisions of this article funds allocated pursuant to Article 1 (commencing with Section 48400 and Article 3 (commencing with Section 48430) of Chapter 3 of Part 27, the school district may change pupil eligibility and weekly minimum attendance. The age requirement established in these articles shall not be altered.

54732. If a school district and school choose to include with programs operated pursuant to this article funds allocated pursuant to Article 1 (commencing with Section 56700) of Chapter 7 of Part 30, the school district shall comply with the procedural safeguards afforded individuals with exceptional needs.

54733. Notwithstanding any other provision in this article, if a

school district and school participate in the school-based program coordination or pupil motivation and maintenance program, any school site advisory committee may elect to designate the school site council to function as that advisory committee for all purposes required by statute or regulations for a period of up to two years.

This section shall not apply to any advisory committee required pursuant to federal statute or regulation.

54734. The Superintendent of Public Instruction shall do all of the following:

(a) Assist districts and schools, upon request, to design, implement, or evaluate school plans authorized by this article.

(b) Apportion funds in accordance with the provisions of Article 3 (commencing with Section 52850) of Chapter 12 of Part 28.

(c) Conduct program quality and fiscal reviews to:

(1) Ensure that funds allocated pursuant to this article are expended for the purposes intended.

(2) Provide information helpful to local schools in improving their programs.

(3) Provide information and technical assistance helpful to schools in improving the school-based pupil motivation and maintenance programs.

(d) Establish an information dissemination repository, including, but not limited to, model programs, instructional strategies, and effective practices for working with high-risk pupils and increasing the pupil retention of schools and school dropout recovery programs. This repository shall be made available to school districts.

(e) Review and approve or disapprove school plans submitted pursuant to Article 3 (commencing with Section 52850) of Chapter 12 of Part 28, provided that the decision to approve or disapprove any school plan shall be based solely upon whether the plan is in compliance with this article and any implementing administrative regulations.

SEC. 4. Chapter 3 5 (commencing with Section 58550) is added to Part 31 of the Education Code, to read:

CHAPTER 3.5. EDUCATIONAL CLINICS

58550. (a) The Legislature finds and declares that, in addition to the school-based motivation and maintenance programs established pursuant to Article 6 (commencing with Section 54720) of Chapter 9 of Part 29, there is a need to establish educational clinics in areas without alternative education and work centers selected pursuant to that chapter.

(b) It is the intent of the Legislature, therefore, to establish publicly or privately operated nonsectarian clinics. A school district may contract with an educational clinic.

58551. Unless the context otherwise requires, the definitions set forth in this section shall govern the construction of this chapter.

(a) "Basic academic skills" means the study of mathematics,

language, reading and composition, science, history, literature, and political science or civics. Basic academic skills shall not include any other course determined by the Superintendent of Public Instruction to be nonessential.

(b) "Clinical, client-centered basis" means an educational approach which includes, at a minimum, all of the following:

(1) Consideration by qualified personnel of a pupil's achievement, abilities, interests, and aptitudes.

(2) The delineation of individual learning objectives and educational or employment goals.

(3) The development and implementation of curriculum and instruction appropriate to diagnosed needs and specified objectives and goals.

(4) Provisions for the evaluation of a pupil's progress toward the attainment of learning objectives and educational or employment goals.

(c) "Educational clinic" means a public or private nonsectarian educational institution that serves dropouts exclusively, is certified by the Superintendent of Public Instruction, and does all of the following:

(1) Recruits or receives referrals of high school dropouts.

(2) Provides instruction in each of the following:

(A) Basic academic skills, with an emphasis in the improvement of a pupil's motivation for achievement.

(B) Employment orientation or reentry orientation.

(3) Operates on a clinical, client-centered basis.

(4) Conducts courses of instruction by professionally trained personnel certificated by the Commission on Teacher Credentialing. Each instructor in an educational clinic shall meet the same certification requirements applicable to regular certificated classroom teachers in the public schools. For purposes of meeting the requirements of subdivision (c) of Section 44830, employment in a position requiring certification in any school district shall include employment as an instructor in an educational clinic.

(5) Returns each pupil to public school, places the pupil in a program to attain a high school equivalency certificate or in a public or private vocational program, assists the pupil in enlisting in the military or any other service program, or assists the pupil in entering a program of postsecondary education.

(6) Is capable of providing appropriate educational services to school dropouts, and of serving pupils who are broadly representative of the socioeconomic, geographic, and ethnic diversity of the population of dropouts from that school district or, in the case of large school districts, the population of dropouts from schools in the vicinity of the educational clinic.

(d) "Eligible school dropout" means a person who has all of the following characteristics:

(1) Is a person who does not possess a high school diploma, or its equivalent.

(2) Is a person between the ages of 13 and 19 years, inclusive, or has been expelled from school.

(3) Has not attended a school within a period of 45 days prior to enrollment in the educational clinic, and has obtained written verification from a school official of the school last attended that he or she is no longer enrolled in that school. Whenever available, and upon the request of the pupil, the school that he or she last attended may provide the educational clinic with a copy of the pupil's academic transcript. For purposes of this subparagraph, if written verification is unavailable, an affidavit submitted by the pupil's parent, guardian, custodian, or other responsible official may be submitted in lieu of the written verification from the school official.

(e) "Employment orientation" includes, but is not necessarily limited to, instruction in the submission of job applications, interview techniques, job expectations of attendance and production, the translation of skills and abilities to job requirements, review by an applicant of job descriptions, and an evaluationof the student's ability to fulfill job requirements.

(f) "Individual diagnostic procedure" means either the individual assessment by a certificated teacher or, whenever deemed necessary by the educational clinic, assessment in conjunction with a psychometrist, psychologist, or other professional who is appropriately certificated or licensed to conduct specific diagnostic evaluations and to prescribe an individual educational and instructional program. A written record of the initial diagnosis of each pupil shall be completed prior to the admission of the pupil to classes offered by the educational clinic. The written record shall also be kept on file by the educational clinic. Each written record shall include, but need not be limited to, all of the following information:

(1) Whenever available, a transcript of the pupil's previous academic record.

(2) A description of the assessment procedures utilized to determine the pupil's ability, interests, and aptitudes.

(3) A summary of all diagnostic findings.

(4) A list of the pupil's educational objectives and program placement recommendations.

(5) The dated signature of each person conducting any part of the diagnosis.

(g) (1) "Instructional hour" means a period of instruction 60 minutes in length.

(2) "Instructional day" means three instructional hours.

(h) "Public clinic" means a nonprofit, nonsectarian agency or organization, including a public school.

(i) "Reentry orientation" includes, but is not necessarily limited to, instruction in study skills, gaining attention and recognition through positive behavior, and constructive interaction with teachers, school administrators, and parents.

58552. (a) In order to obtain certification as an educational clinic from the Superintendent of Public Instruction, each private

educational institution shall submit an application to the superintendent documenting compliance with all of the following requirements:

(1) The applicant qualifies as an educational clinic within the meaning of subdivision (d) of Section 58551.

(2) The applicant offers instruction in basic academic skills, employment orientation, and reentry orientation, as defined in Section 58551.

(3) The applicant operates on a clinical, client-centered basis, as defined by subdivision (c) of Section 58551.

(4) The applicant will produce educational gains among pupils which directly relate to the identified individual learning objectives and educational or employment goals.

(5) The applicant maintains accurate and complete financial and personnel records.

(b) Private educational institutions seeking certification by the Superintendent of Public Instruction as educational clinics shall submit applications upon forms designated for that purpose which shall include documentation verifying that the applicant meets each of the requirements prescribed by subdivision (a). Upon receipt of the application, the superintendent shall notify each applicant of its certification status within five weeks after the receipt of the completed application

(c) Each private educational institution approved for certification as an educational clinic by the superintendent shall be certified for a period not to exceed three years. Upon the expiration of the initial certification, each approved educational clinic may apply for a renewal of its certification.

(d) Any changes in the operation of the educational clinic which are relevant to the certification criteria prescribed in subdivision (a) shall be approved in writing by the Superintendent of Public Instruction before the change is deemed to be in effect.

(e) The Superintendent of Public Instruction may withdraw certification from any approved educational clinic if it is determined that any of the following conditions exist:

(1) The educational clinic does not provide adequate instruction in basic academic skills, as defined in subdivision (a) of Section 58551.

(2) Student performance data do not substantiate educational gains for pupils which directly relate to the identified individual learning objectives and the educational or employment goals.

(3) The educational clinic does not provide opportunities for employment orientation or reentry orientation in accordance with the requirements of this chapter.

(4) The educational clinic fails to meet any of the criteria for certification prescribed by subdivision (a).

(f) The ratio of pupils to professional staff members for an educational clinic shall not exceed twenty-to-one.

58553. (a) No certified educational clinic may begin operation until and unless it has provided each school district within its service

area with the opportunity to enter into a contractual agreement with the clinic for the provision of services to eligible school dropouts, pursuant to the limitations contained in Section 58554. In the event that any such school district chooses not to enter into that contractual agreement with the educational clinic, the clinic shall provide the appropriate county superintendent of schools with the opportunity to enter into that agreement.

(b) From funds appropriated for that purpose, the Superintendent of Public Instruction shall reimburse school districts or county superintendents of schools for fees paid to educational clinics for services to eligible dropouts under the terms of agreements entered into under subdivision (a). Reimbursement provided under this subdivision shall not exceed the limitations set forth in Section 58544.

58553.5. If a school district or county superintendent of schools does not contract with an educational clinic to provide educational services to eligible high school dropouts, the clinic may submit an application to contract for those services directly to the Superintendent of Public Instruction, who shall make a determination as to the need for services to dropouts in the vicinity of the school district. Upon finding that these services would be beneficial, the Superintendent of Public Instruction shall, subject to the availability of funds, enter into a contract with the educational clinic, pursuant to Section 58553.

58554. (a) The maximum fee for an initial diagnosis prepared by an educational clinic pursuant to a contract entered into under Section 58553 or 58553.5 shall be an amount not to exceed seventy-five dollars ($75).

(b) The maximum fee for each instructional hour or fees for an additional diagnosis provided under the terms of a contract entered into under Section 58553 or 58553.5 shall not exceed five dollars ($5) per hour.

(c) School districts which operate certified educational clinics shall not claim average daily attendance apportionments for purposes of operating educational clinics under this chapter.

58555. (a) Except as otherwise provided in subdivision (b), after a pupil has attended an educational clinic for 75 instructional days, for all or a portion of each day, the school district or county superintendent of schools shall receive no further reimbursement, pursuant to subdivision (b) of Section 58554, for that pupil.

(b) A school district or county superintendent of schools may petition the superintendent for continued reimbursement for providing instruction to a pupil beyond the 75-day period specified in subdivision (a). A petition for continued reimbursement shall be filed prior to the 75th instructional day, but no earlier than the 60th instructional day. The petition shall be submitted with a report which shall include, but not be limited to, all of the following information:

(1) An explanation of the pupil's educational difficulties.

(2) A specific learning program to address the pupil's educational difficulties.

(3) An estimate of the additional time required to achieve the educational objectives established when the pupil first enrolled in the educational clinic.

The superintendent shall promptly review the petition and report. If the superintendent determines that the learning program seems reasonably likely to succeed in achieving the pupil's educational objectives, he or she may continue to provide the school district with reimbursement for that student for a period not to exceed 60 additional instructional days. The superintendent shall promptly forward notice of the determination to the school district.

(c) An educational clinic which has contracted with the Superintendent of Public Instruction pursuant to Section 58553.5 may directly petition the superintendent as provided in subdivision (b).

58556. The attendance of pupils at a certified educational clinic shall be deemed to satisfy the compulsory school attendance and the compulsory continuation school attendance requirements of Chapter 2 (commencing with Section 48200) and Chapter 3 (commencing with Section 48400) of Part 27.

58557. (a) A certified educational clinic shall not charge any fee for services provided under this chapter for which the clinic receives reimbursement to any pupil, or to the parent, guardian, or custodian of any pupil.

(b) Nothing in this chapter shall be construed to prohibit a certified educational clinic from accepting donations from private entities, including foundations, corporations, and individuals, to supplement any other funds received by the educational clinic.

(c) The State Department of Education shall annually inform public and private agencies operating in the areas served by an educational clinic of services available to eligible high school dropouts which may be provided by that clinic.

58558. (a) The Superintendent of Public Instruction shall provide for the monitoring of the activities, procedures, and records of certified educational clinics. To the extent feasible, monitoring activities shall be conducted through onsite visits scheduled during normal business hours of the educational clinic.

(b) The superintendent shall adopt rules and regulations necessary to implement the requirements of this chapter. The adopted rules and regulations shall require each certified educational clinic to authorize the State Department of Education to conduct audits for the purpose of examining its financial records.

The adopted rules and regulations shall also require that any fund balances remaining under a contract which is not fully performed shall be returned to the Superintendent of Public Instruction for reallocation without regard to fiscal year.

58559. Each eligible school dropout participating in any program under this chapter shall have on file with the appropriate certified

educational clinic a written waiver form authorizing the Superintendent of Public Instruction and auditors to examine his or her records maintained by the educational clinic at any time for any purpose consistent with the provisions of this chapter.

58560. (a) The State Department of Education shall evaluate educational clinics certified under this chapter.

(b) The evaluation conducted by the State Department of Education shall include, but is not limited to, all of the following:

(1) An evaluation of the operating costs of services provided by educational clinics in comparison to other programs for high school dropouts. The evaluation shall include an analysis of the total amount of reimbursement provided for services to high school dropouts under this chapter and the total number of pupils served. The evaluation shall also include an analysis of the cost per pupil of the services provided and an analysis of pupil performance levels compared to other available programs and services.

(2) An analysis of the effectiveness of educational clinics in increasing the total number of pupils completing their high school graduation, or high school equivalency, compared to the rates of comparable programs, as well as other positive outcomes, including, but not limited to, reenrollment rates, and the number of pupils entering into vocational training programs, obtaining employment, enrolling in postsecondary educational institutions, or enlisting in the military service.

(c) Each certified educational clinic shall cooperate with the State Department of Education in the evaluations required by this section by supplying whatever information is deemed necessary for the purposes of these evaluations. Each educational clinic shall also submit an annual statement to the department and the committee identifying the names of the owners of the educational clinic as well as, in the case of incorporated educational clinics, the names of corporate officers, directors, and shareholders of record.

(d) The State Department of Education shall submit a report to the Legislature regarding the results of the evaluations conducted under this section, and shall also submit a copy of the report to the Legislative Analyst, on or before January 1, 1989. The Legislative Analyst shall review the report submitted by the department and, not later than 90 days following the receipt of the report, shall submit any findings, comments, and recommendations the Legislative Analyst determines are appropriate regarding the educational clinics.

58561. This chapter shall become inoperative on June 30, 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 dates on which it becomes inoperative and is repealed.

SEC. 5. (a) The sum of three million one hundred twenty-five thousand dollars ($3,125,000) is hereby appropriated from the General Fund to the State Department of Education for the 1985–86 fiscal year for allocation in accordance with the following schedule:

Schedule:

(1) For purposes of motivation and maintenance and dropout recovery programs established pursuant to this act $2,050,000

The amount appropriated by this paragraph shall be allocated as follows:

(A) For schools with approved planning applications, planning grants in the amount of six thousand dollars ($6,000) for each secondary school and four thousand dollars ($4,000) for each elementary school 1,000,000

(B) For school districts with approved dropout recovery planning applications, planning grants in the amount of eight thousand dollars ($8,000) for each district 400,000

(C) To the Superintendent of Public Instruction for purposes of administrative costs of the program 250,000

(D) To the Superintendent of Public Instruction for purposes of grants and contracts for the implementation and maintenance of a model program and a strategy reposito-

ry pursuant to subdivision (d) of Section 54734 of the Education Code 400,000

(2) For purposes of educational clinic pilot programs established pursuant to Chapter 3.5 (commencing with Section 58550) of Part 31 of the Education Code, as added by Section 4 of this act, provided that no more than 5 percent of this amount shall be used by the Superintendent of Public Instruction for administrative costs of the program ..... $ 1,000,000

(3) For purposes of contracting for an independent evaluation of educational clinic pilot programs established pursuant to Chapter 3.5 (commencing with Section 58550) of Part 31 of the Education Code, as added by Section 4 of this act, that addresses the evaluation criteria required by Section 58560.... $ 75,000

(b) It is the intent of the Legislature that funding for the educational clinic pilot program and school based motivation and maintenance and dropout recovery programs in future fiscal years be provided in the annual Budget Act. It is further the intent of the Legislature that the Superintendent of Public Instruction shall include a line item of educational clinics in the superintendent's annual budget report to the Governor and the Legislature.

The Legislative Analyst shall review the report submitted by the State Department of Education and, no later than 90 days following the receipt of each report, shall submit findings, comments, and recommendations, as the Legislative Analyst deems appropriate, regarding the educational clinics.

SEC. 6. It is the intent of the Legislature that the sum of twelve million six hundred fifty tousand dollars ($12,650,000) shall be appropriated by the Budget Act of 1986 from the General Fund to the Superintendent of Public Instruction for the 1986–87 fiscal year for allocation in accordance with the following schedule:

Schedule:

(1) For schools with approved motivation and maintenance plans, forty thousand dollars ($40,000) for each outreach consultant position

	$8,000,000
(2) For school districts with approved dropout recovery program plans, which include the establishment of an alternative education and work center, forty thousand dollars ($40,000) for each outreach consultant position	$2,000,000
(3) For the operation of education clinics operated pursuant to Chapter 3.5 (commencing with Section 58550) of Part 31 of the Education Code	$2,000,000
(4) To the Superintendent of Public Instruction for purposes of administrative costs of the program	$250,000
(5) To the Superintendent of Public Instruction for purposes of grants and contracts for the implementation and maintenance of a model program and a strategy repository pursuant to subdivision (d) of Section 54733 of the Education Code	$400,000

CHAPTER 1432

An act to amend Sections 1318, 1318.1, and 1320, and to repeal Section 13825 of, the Penal Code, and to amend Section 17 of Chapter 873 of the Statutes of 1979, relating to bail.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 1318 of the Penal Code is amended to read:

1318. (a) The defendant shall not be released from custody under an own recognizance until the defendant files with the clerk of the court or other person authorized to accept bail a signed release agreement which includes:

(1) The defendant's promise to appear at all times and places, as ordered by the court or magistrate and as ordered by any court in which, or any magistrate before whom the charge is subsequently pending.

(2) The defendant's promise not to depart this state without leave of the court.

(3) Agreement by the defendant to waive extradition if the

defendant fails to appear as required and is apprehended outside of the State of California.

(4) The acknowledgment of the defendant that he or she has been informed of the consequences and penalties applicable to violation of the conditions of release.

SEC. 2. Section 1318.1 of the Penal Code is amended to read:

1318.1. A court may, with the concurrence of the board of supervisors, employ an investigative staff for the purpose of recommending whether a defendant should be released on his or her own recognizance.

The salaries of such staff are a proper charge against the county.

SEC. 3. Section 1320 of the Penal Code is amended to read:

1320. (a) Every person who is charged with the commission of a misdemeanor who is released from custody on his or her own recognizance and who in order to evade the process of the court willfully fails to appear as required, is guilty of a misdemeanor. It shall be presumed that a defendant who willfully fails to appear within 14 days of the date assigned for his or her appearance intended to evade the process of the court.

(b) Every person who is charged with the commission of a felony who is released from custody on his or her own recognizance and who in order to evade the process of the court willfully fails to appear as required, is guilty of a felony, and upon conviction shall be punished by a fine not exceeding five thousand dollars ($5,000) or by imprisonment in the state prison, or in the county jail for not more than one year, or by both such fine and imprisonment. It shall be presumed that a defendant who willfully fails to appear within 14 days of the date assigned for his or her appearance intended to evade the process of the court.

SEC. 4. Section 13825 of the Penal Code is repealed.

SEC. 5. Section 17 of Chapter 873 of the Statutes of 1979 is amended to read:

Sec. 17. Sections 4, and 11 to 13, inclusive, of this act 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. The remainder of this act shall remain in effect only until December 31, 1985.

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.

SEC. 7. 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 1433

An act to add Sections 44261.7 and 44276 to the Education Code, relating to education.

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

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

SECTION 1. Section 44261.7 is added to the Education Code, to read:

44261.7. Commencing July 1, 1988, the minimum requirements for a clear teaching credential also include satisfactory completion of computer education coursework which includes general and specialized skills in the use of computers in educational settings, in accordance with regulations established by the commission.

SEC. 2. Section 44276 is added to the Education Code, to read:

44276. (a) The Legislature hereby finds and declares that California's public school pupils need quality instruction and support in the areas of computer education in order to develop the skills necessary for entry into an increasingly technological society. The Legislature recognizes that computers and other technologies are an integral part of contemporary society and the state educational system.

It is the intent of the Legislature in enacting this section to provide a statewide standard for the preparation of educational personnel in the areas of computer education.

(b) For purposes of this section, "computer education" means the process of teaching pupils about computers.

(c) The Commission on Teacher Credentialing, in consultation with the Superintendent of Public Instruction, may develop and disseminate voluntary standards for the training and performance of teachers and resource personnel in the area of computer education.

(d) The Commission on Teacher Credentialing shall study the effectiveness of the training and performance of teachers and resource personnel in the area of computer education, and shall submit a report on the results of the study to the Legislature on or before December 31, 1987.

CHAPTER 1434

An act relating to wildlife, and making an appropriation therefor.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) During 1986, a small migratory songbird called the Least Bell's Vireo (Vireo bellii pusillus) is expected to be listed as an endangered species by the Secretary of the Department of Interior. The bird has already been determined to be endangered by the state.

(b) The total population of the birds in the United States, about 300 pairs, is in southern California and predominantly in San Diego County, although significant populations also inhabit Riverside and San Bernardino Counties. The reasons for the bird's precipitous decline in numbers are primarily the destruction of their preferred habitat by urban development and agriculture, and parasitism by a nonendangered species, the Brown Headed Cowbird (Molothrus ater).

(c) It is unquestionable that the Vireo qualifies for listing as an endangered species. However, its habitat lies partially in areas of southern California which are scheduled for critical transportation, flood control, and water quality improvements.

(d) It is desirable that these projects proceed on or near their original schedules while satisfying the requirements of the Endangered Species Act, and that the Least Bell's Vireo be saved from extinction and encouraged to expand its numbers and range.

SEC. 2. Notwithstanding subdivision (g) of Section 21191 of the Public Resources Code, the sum of one hundred fifty thousand dollars ($150,000) is hereby appropriated from the State Highway Account in the State Transportation Fund to the Department of Transportation for allocation on a 50-50 matching fund basis to the San Diego Association of Governments to develop, through a cooperative effort, a program which consists of an overall plan and strategy for recovery of the Least Bell's Vireo, individual habitat conservation plans, and a management project in the species' habitat area. The program shall include all the following components:

(a) A task force which includes broad representation from involved local, state, and federal agencies and concerned groups in the private sector. The task force shall include, but not be limited to, representatives from the City of San Diego, the County of San Diego, the County of Riverside, the County of San Bernardino, the City of Oceanside, the City of Santee, the Audubon Society, San Diego State University, the Zoological Society of San Diego, the San Diego County Water Authority, the Department of Transportation, the Department of Fish and Game, and the United States Fish and Wildlife Service. The task force shall act as a selection panel and make a recommendation to the San Diego Association of Governments on the hiring of the environmental consultant and shall review and comment on the plan and program provided for in subdivision (b) for the purpose of assuring that appropriate species and habitat management occurs.

(b) A plan and program which includes all of the following:

(1) A plan for the conservation of the species on a rangewide basis, in the context of planning for riparian habitat generally.

(2) Development of individual habitat conservation plans, particularly with respect to riparian habitat areas where significant and multipurpose uses are contemplated.

(3) Development of institutional arrangements which would provide for the future preservation and maintenance of appropriate habitat for the species.

(4) Development of an ongoing, active management program in cooperation with other local, state, and federal agencies and public and private sector interests.

(c) At the request of the task force, involving as advisers the Zoological Society of San Diego and San Diego State University in habitat identification, development of management procedures, and research into the feasibility of captive propagation of the species.

(d) Conducting, at the consensus of the task force, field projects to enhance habitat areas, reduce cowbird parasitism or, if appropriate, both.

(e) Providing all management and support activities necessary for the resolution of conflicts and in support of preservation of the species.

(f) Including in the program other areas of the species range including Riverside and San Bernardino Counties.

(g) Encouraging private and public agency financial participation in habitat enhancement, species management, and other programs by proponents of projects which conflict with the species habitat.

CHAPTER 1435

An act to amend Section 25144 of, to add Article 7 (commencing with Section 44558) to Chapter 1 of Division 27 of, and to repeal Section 25162 of, 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 October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 25144 of the Health and Safety Code is amended to read:

25144. Except as regulated by the Environmental Protection Agency pursuant to the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. Sec. 6901 et seq.), a biological process on the property of the producer treating oil, its products, and water, and producing an effluent which is continuously discharged to

navigable waters in compliance with a permit issued pursuant to Section 402 of the Federal Water Pollution Control Act (33 U.S.C. Sec. 1342) is exempt from this chapter. However, residues produced in the treatment process and subsequently removed that conform to any criterion adopted pursuant to Section 25141 are not exempt.

SEC. 2. Section 25162 of the Health and Safety Code is repealed.

SEC. 3. The Legislature hereby finds and declares that a need exists to provide financial incentives to industry to invest in facilities which treat, recycle, destroy, or dispose of hazardous waste to reduce the amount of hazardous wastes disposed of in landfills. In addition, while it is recognized that the pollution control facility financing program administered by the California Pollution Control Financing Authority has successfully utilized tax exempt revenue bonds to lower the borrowing costs of industry for financing pollution control facilities, including certain hazardous waste facilities, the Legislature also finds that the hazardous waste facility financing program provided by Article 7 (commencing with Section 44558) of Chapter 1 of Division 27 of the Health and Safety Code will further enhance and accelerate industry investment in those facilities, and will complement the authority's existing programs.

SEC. 4. Article 7 (commencing with Section 44558) is added to Chapter 1 of Division 27 of the Health and Safety Code, to read:

Article 7. Hazardous Waste Reduction Incentive Program

44558. (a) The authority may contract with qualified financial institutions or agencies, including, but not limited to, banks, investment and mortgage bankers, insurance companies, sureties, and guarantors, to provide any necessary support for the granting of credit to enable the authority to better provide the financial assistance which the authority is authorized to provide, pursuant to Section 44526, to a participating party, for a project specified in Section 44558.1. The authority may, in providing financial assistance, expend up to two hundred fifty thousand dollars ($250,000) from the Hazardous Waste Reduction Incentive Account for each project.

(b) The forms of financial assistance which the authority may provide under this article 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, or payment of part or all of the authority's costs in issuing revenue bonds.

44558.1. A project for which financial assistance may be provided pursuant to this article shall meet all of the following requirements:

(a) The project shall be located in California.

(b) The project shall be used to acquire, construct, or install equipment to recycle or treat hazardous wastes by removing liquids or reducing the toxicity of the hazardous waste, thereby reducing the need to dispose of the hazardous waste into or onto the land, including land farms, deep injection wells, surface impoundments,

and landfills. The project shall not utilize surface impoundments of hazardous waste for the purpose of evaporation.

(c) The project shall comply with any other requirements which the authority, in consultation with the State Department of Health Services, the State Water Resources Control Board, the State Air Resources Board, and any other appropriate state agency, may determine.

(d) The State Department of Health Services, and other state agencies as appropriate, shall inspect the project when construction is completed and operation has begun, and at suitable intervals thereafter, to ensure that the project appropriately recycles or treats hazardous waste. Inspection reports shall be submitted to the authority.

44558.2. A participating party receiving a loan or other form of financial assistance pursuant to this article shall provide the authority with an annual report, in the form prescribed by the authority, describing the performance of the project.

44558.3. (a) The Hazardous Waste Reduction Incentive Account is hereby created in the General Fund.

The funds deposited in that account shall be available, upon appropriation by the Legislature in the annual Budget Act, for carrying out the purposes of this article.

(b) Notwithstanding Section 16475 of the Government Code, any interest earned or increment which accrues in the Hazardous Waste Reduction Incentive Account shall be credited to that account and shall not be transferred to the Surplus Money Investment Fund.

SEC. 5. (a) The sum of two million six hundred thousand dollars ($2,600,000) is hereby transferred from the General Fund to the Hazardous Waste Reduction Incentive Account.

(b) The sum of two million six hundred thousand dollars ($2,600,000) is hereby appropriated from the Hazardous Waste Reduction Incentive Account to the California Pollution Control Financing Authority for the purpose of carrying out Article 7 (commencing with Section 44558) of Chapter 1 of Division 27 of the Health and Safety Code.

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

Due to the urgent need to provide financing for equipment which lessens the need to dispose of hazardous waste on land, and the danger to the public health and the environment caused by the land disposal of hazardous waste, it is necessary that this act take effect immediately.

CHAPTER 1436

An act to amend and renumber Section 6254.1 of the Government Code, relating to pesticides.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 6254.1 of the Government Code is amended and renumbered to read:

6254.2. (a) Nothing in this chapter exempts from public disclosure the same categories of pesticide safety and efficacy information that are disclosable under paragraph (1) of subsection (d) of Section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136h(d)(1)), if the individual requesting the information is not an employee or agent specified in subdivision (h) and signs the affirmation specified in subdivision (h).

(b) The Director of Food and Agriculture, upon his or her initiative, or upon receipt of a request pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) for the release of data submitted and designated as a trade secret by a registrant or applicant, shall determine whether any or all of the data so submitted is a properly designated trade secret. In order to assure that the interested public has an opportunity to obtain and review pesticide safety and efficacy data and to comment prior to the expiration of the public comment period on a proposed pesticide registration, the director shall provide notice to interested persons when an application for registration enters the registration evaluation process.

(c) If the director determines that the data is not a trade secret, the director shall notify the registrant or applicant by certified mail.

(d) The registrant or applicant shall have 30 days after receipt of this notification to provide the director with a complete justification and statement of the grounds on which the trade secret privilege is claimed. This justification and statement shall be submitted by certified mail.

(e) The director shall determine whether the data is protected as a trade secret within 15 days after receipt of the justification and statement or, if no justification and statement is filed, within 45 days of the original notice. The director shall notify the registrant or applicant and any party who has requested the data pursuant to the California Public Records Act of that determination by certified mail. If the director determines that the data is not protected as a trade secret, the final notice shall also specify a date, not sooner than 15 days after the date of mailing of the final notice, when the data shall be available to any person requesting information pursuant to subdivision (a).

(f) "Trade secret" means data that is nondisclosable under paragraph (1) of subsection (d) of Section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act.

(g) This section shall be operative only so long as, and to the extent that, enforcement of paragraph (1) of subsection (d) of Section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act has not been enjoined by federal court order, and shall become inoperative if an unappealable federal court judgment or decision becomes final that holds that paragraph invalid, to the extent of the invalidity.

(h) The Director of Food and Agriculture shall not knowingly disclose information submitted by an applicant or registrant pursuant to Article 4 (commencing with Section 12811) of Chapter 2 of Division 7 of the Food and Agricultural Code to any employee or agent of any business or other entity engaged in the production, sale, or distribution of pesticides in countries other than the United States or in other countries in addition to the United States, or to any other person who intends to deliver this information to any foreign or multi-national business or entity, unless the applicant or registrant consents to this disclosure. To implement this subdivision, the director shall require the following affirmation to be signed by the person who requests information pursuant to this section:

AFFIRMATION OF STATUS

This affirmation is required by Section 6254.2 of the Government Code.

I have requested access to information submitted by an applicant or registrant under the California Food and Agricultural Code. I hereby affirm all of the following:

(1) I do not seek access to the information for purposes of delivering it or offering it for sale to any business or other entity engaged in the production, sale, or distribution of pesticides in countries other than the United States or in other countries in addition to the United States, or to the agents or employees of such a business or entity.

(2) I will not purposefully deliver or negligently cause the data to be delivered to such a business or entity or its agents or employees.

I am aware that I may be subject to criminal penalties under Section 118 of the Penal Code if I make any statement of material facts knowing that the statement is false or if I willfully conceal any material fact.

Name	Organization
Signature	
Date Request No	Address
Client, if you are requesting access on behalf of someone other than the organization or affiliation listed above	

(i) Notwithstanding any other provision of this section, the Director of Food and Agriculture may disclose information submitted by an applicant or registrant to any person in connection with a public proceeding conducted under law or regulation, if the director determines that the information is needed to determine whether a pesticide, or any ingredient of any pesticide, causes unreasonable adverse effects on health or the environment.

(j) The director shall maintain records of the names of persons to whom data is disclosed pursuant to this section and the persons or organizations they represent and shall inform the applicant or registrant of the names and the affiliation of these persons.

(k) Section 118 of the Penal Code applies to any affirmation made pursuant to this section.

(*l*) Any officer or employee of the state or former officer or employee of the state who, because of this employment or official position, obtains possession of, or has access to, material which is prohibited from disclosure by this section, and who, knowing that disclosure of this material is prohibited by this section, willfully discloses the material in any manner to any person not entitled to receive it, shall, upon conviction, be punished by a fine of not more than ten thousand dollars ($10,000), or by imprisonment in the county jail for not more than one year, or by both fine and imprisonment.

For purposes of this subdivision, any contractor with the state who is furnished information pursuant to this section, or any employee of any contractor, shall be considered an employee of the state.

(m) This section does not prohibit any person from maintaining a civil action for wrongful disclosure of trade secrets.

(n) The director may limit an individual to one request per month pursuant to this section if the director determines that a person has made a frivolous request within the past 12-month period.

CHAPTER 1437

An act to add Sections 97.85 and 99.5 to the Revenue and Taxation Code, relating to public finance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 97.85 is added to the Revenue and Taxation Code, to read:

97.85. (a) Notwithstanding any other provision of law, the 1982–83 fiscal year business inventory exemption subvention previously authorized by Section 16113 of the Government Code, may be removed by any county from the allocation and apportionment formula prescribed by this chapter, so long as the amount which is removed from each jurisdiction in the county represents the jurisdiction's most recent allocation of that subvention pursuant to Section 97.5. This section shall not apply to any county which in the 1980–81 fiscal year removed that subvention authorized by Section 16113 of the Government Code, as it read then, from the allocation and apportionment formula by spreading the reduction across tax rate areas or reducing the annual tax increment computation.

(b) For the 1984–85 fiscal year only, any county of the first class may remove the 1982–83 fiscal year business inventory exemption subvention referred to in subdivision (a) from the allocation and apportionment formula prescribed by this chapter on the basis of the amounts credited to each jurisdiction for the subvention and related nonexempt revenues in the 1978–79 fiscal year, and the growth in those revenues during any subsequent year. However, commencing with the 1985–86 fiscal year, any county of the first class shall adjust the apportionment percentages pursuant to Section 97.5 as if the county in the 1984–85 fiscal year had removed that business inventory exemption subvention on the basis of each jurisdiction's most recent allocation of the subvention pursuant to this chapter, rather than on the basis of the amount of the subvention and related nonexempt revenues credited to each jurisdiction in the 1978–79 fiscal year and each subsequent year.

(c) In the event a county of the first class removed the business inventory exemption subvention referred to in subdivision (a) during the 1984–85 fiscal year in accordance with subdivision (b), for the 1985–86 fiscal year only, the county auditor shall compute for each local agency its share of the additional local agency revenues which resulted from making the adjustment authorized by subdivision (b), rather than removing the business inventory exemption subvention in accordance with the most recent allocation of that subvention. The precise amount of each local agency's share of the additional revenue shall be calculated, rather than a pro rata amount based on the 1984–85 fiscal year property tax allocations. The county auditor shall then subtract the share of each local agency from the 1985–86 fiscal year property tax allocation of the local agency, except that for the county the amount of the reduction shall be the difference between the share for the county and the amount not yet billed to the state for holding in local detention facilities parolees who have violated the conditions of parole and are awaiting disposition of their cases as a result of parole revocation hearings, as audited jointly by the Department of Finance and the Department

of Corrections. The total of all such reductions shall be added on a pro rata basis to the 1985–86 property tax allocations of school entities. The adjustments required by this subdivision shall be in addition to the required 1985–86 fiscal year adjustment of the apportionment percentages pursuant to subdivision (b).

(d) It is the intent of the Legislature that the shift of funds between certain local agencies and school entities, as required by subdivision (c), shall offset the 1984–85 fiscal year loss of school entity property tax revenues from the 1984–85 fiscal year adjustment authorized by subdivision (b). It is also the intent of the Legislature that with the above exclusion of counties from the adjustment to 1985–86 fiscal year property tax allocations the state shall not reimburse a county of the first class, pursuant to Section 4016.5 of the Penal Code, for its costs incurred before May 1, 1985, and not yet billed to the state, for holding in local detention facilities parolees who have violated the conditions of parole and are awaiting disposition of their cases as a result of parole revocation hearings.

SEC. 2. Section 99.5 is added to the Revenue and Taxation Code, to read.

99.5. (a) For the purposes of the computations required by this chapter for the 1986–87 fiscal year and fiscal years thereafter, in the case of any transfer of property tax revenues between local agencies which is adopted and approved in conformity with subdivisions (b) and (c), the county auditor shall adjust the allocation of property tax revenue determined pursuant to Section 97, or the annual tax increment determined pursuant to Section 98, for those local agencies whose allocation would be altered by the transfer.

(b) Commencing with the 1986–87 fiscal year or any fiscal year thereafter, a local agency may, by the adoption of a resolution of its governing board, determine to exchange any portion of its property tax revenues which is allocable to one or more tax rate areas, with one or more other local agencies having the same tax rate area or tax rate areas. Upon the adoption of the resolution, the governing board of the local agency shall notify the board of supervisors of the affected county.

If the transfer of property tax revenues will alter the property tax revenue allocation of a city, the governing board of the local agency shall, upon adoption of the resolution, also notify the affected city.

(c) If the board of supervisors of the affected county concurs with the proposed exchange of property tax revenues, it shall, by resolution, approve the exchange and notify the county auditor. If the property tax allocation of a city would be affected by the exchange, the board shall not notify the county auditor pursuant to this subdivision until the city council of the affected city has, by resolution, approved the proposed exchange of property tax revenues.

(d) Upon receipt of notification from the board of supervisors pursuant to subdivision (c), the county auditor shall make the necessary adjustments specified in subdivision (a).

(e) Prior to the adoption by the governing board of a local agency of a resolution pursuant to subdivision (b), the local agency shall hold a public hearing to consider the effect of the proposed transfer. Notice of the hearing shall be published pursuant to Section 6061 of the Government Code in one or more newspapers of general circulation within the local agency.

(f) No local agency shall reallocate property tax revenue pursuant to this section unless the transfer will not result in any increase in the ratio between the amount of revenues of the transferring agency which are generated by regulatory licenses, use charges, user fees, or assessments and the amount of revenues of the transferring agency used to finance services provided by it.

(g) This section applies only to exchanges affecting the Ventura Regional Sanitation District located within the County of Ventura.

SEC. 3. 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. 3.5. The Legislature finds and declares in enacting Section 2 of this act that a special law is necessary and that a general law cananot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique fiscal circumstances involving the Ventura County Regional Sanitation District located within the County of Ventura.

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 local agencies with sufficient time to plan for the orderly transfer of service areas and service responsibilities, it is necessary that this act go into immediate effect.

CHAPTER 1438

An act to add Chapter 28 (commencing with Section 17870) to Part 10 of the Education Code, relating to education, and making an appropriation therefor.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Chapter 28 (commencing with Section 17870) is added to Part 10 of the Education Code, to read:

CHAPTER 28. CALIFORNIA SCHOOL FINANCE AUTHORITY

17870. This chapter shall be known and may be cited as the California School Finance Authority Act.

17871. The Legislature hereby finds and declares that it is in the interest of the state and its people for the state to do all of the following:

(a) Reconstruct, remodel, or replace existing school buildings which are educationally inadequate or which do not meet current structural safety requirements.

(b) Acquire new school sites and buildings to be made available to school districts for the pupils of the public school system, which is a matter of general concern inasmuch as the education of the state's children is an obligation and function of the state.

(c) Assist school districts by providing access to financing for working capital and capital improvements.

17872. There is in the state government the California School Finance Authority. The authority is a public instrumentality, and the exercise by the authority of the powers conferred by this chapter is an essential public function.

17873. As used in this chapter, the following words and terms shall have the following meanings, unless the context indicates or requires another or different meaning or intent:

(a) "Act" means the California School Finance Authority Act.

(b) "Authority" means the California School Finance Authority, or any board, body, commission, department, or officer succeeding to the principal functions of the authority, or to which the powers conferred upon the authority by this chapter shall be given by law.

(c) "Bonds" means bonds, notes, bond anticipation notes, commercial paper, and any other evidences of indebtedness.

(d) "Cost," as applied to all or part of a project financed pursuant to this chapter, means and includes all or any part of the cost of any of the following:

(1) Construction.

(2) Acquisition or improvement of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a project.

(3) Demolition or removal of any buildings or structures on land acquired for a project, including the acquisition of any lands to which the buildings or structures may be moved.

(4) All machinery and equipment.

(5) Financing charges.

(6) Interest prior to, during, and for a period following, the completion of such construction or improvement as determined by the authority.

(7) Provisions for working capital.

(8) Reserves for principal and interest, and for extensions, enlargements, additions, replacements, renovations, and improvements.

(9) Engineering, architectural, financial, and legal services, plans, specifications, studies, surveys, estimates, administrative expenses, and other expenses necessary or incident to the construction, acquisition, or improvement of any project or any financing under this chapter.

(e) "Educational facility" means any property, facility, structure, equipment, or furnishings used or operated in conjunction with one or more public schools, including, but not limited to, all of the following:

(1) Classrooms.

(2) Auditoriums.

(3) Student centers.

(4) Administrative offices.

(5) Sports facilities.

(6) Maintenance, storage, or utility facilities.

(7) All necessary or usual attendant and related facilities and equipment, including streets, parking, and supportive service facilities or structures required or useful for the effective operation of the educational facility.

(f) "Participating school district" means a school district which undertakes the financing or refinancing of a project pursuant to this chapter.

(g) "Project" means the acquisition, construction, expansion, remodeling, renovation, improvement, furnishing, or equipping of an educational facility to be financed or refinanced pursuant to this chapter. "Project" may include any combination of the foregoing undertaken jointly by any participating school district with one or more other participating school districts.

(h) "Working capital" means funds to be used by, or on behalf of, a participating school district to pay maintenance or operating expenses, or any other costs which would be treated as an expense item under generally accepted accounting principles in connection with the ownership or operation of an educational facility, including, but not limited to, all of the following:

(1) Reserves for maintenance or operating expenses.

(2) Interest for a period not to exceed one year on any loan for working capital made pursuant to this chapter.

(3) Reserves for debt service, and any other costs necessary or incidental to, financing pursuant to this chapter.

17874. (a) The authority shall be comprised of the following members:

(1) The Treasurer, who shall serve as chairperson.

(2) The Director of the State Department of Finance.

(3) The Superintendent of Public Instruction.

(b) Each member of the authority may designate an individual from the member's department or agency to act for the member and represent the member at all meetings.

(c) Members of the authority or their designees shall serve without compensation, but may be reimbursed by the authority for

necessary and reasonable expenses incurred in the discharge of their duties.

17875. (a) Upon the first appointment of its members, and thereafter on or after March 31 of each year, the authority shall elect from its members a vice chairperson and a secretary-treasurer, who shall hold office until the following March 31, and shall continue to serve until their successors have been elected.

(b) On behalf of the authority, the chairperson shall appoint an executive director, who shall not be a member of the authority, and who shall serve at the pleasure of the authority. The executive director shall receive the compensation fixed for that purpose by the authority.

17876. (a) Except as otherwise provided by subdivision (b), the Attorney General shall be the legal counsel for the authority.

(b) Upon the approval of the Attorney General, which shall not be unreasonably withheld, the authority may employ legal counsel as, in its judgment, is necessary or advisable to enable it to carry out the duties and functions of the authority pursuant to this chapter, including, but not limited to, the employment of bond counsel in connection with the issuance of bonds.

17877. The executive director or other person designated by resolution of the authority shall maintain a record of the proceedings of the authority, and shall be custodian of all books, documents, and papers filed with the authority, the minute book or journal of the authority, and its official seal. The executive director or the designee may cause copies to be made of all minutes and other records and documents of the authority, and may certify under the official seal of the authority that the copies are true copies, and all persons dealing with the authority may rely upon that certification.

17878. Two members of the authority shall constitute a quorum. The affirmative vote of a majority of a quorum shall be necessary for any action taken by the authority. A vacancy in the membership of the authority shall not impair the right of a quorum to exercise all the rights and perform all the duties of the authority. Each meeting of the authority shall be open to the public and shall be held in accordance with the provisions of Article 11 (commencing with Section 11120) of Chapter 1 of Division 3 of the Government Code. Resolutions of the authority need not be published or posted. The authority may delegate by resolution to one or more of its members or its executive director such powers and duties as it may deem proper.

17879. The provisions of this chapter shall be administered by the authority, which shall have and is hereby vested with all powers reasonably necessary to carry out the powers and responsibilities expressly granted or imposed under this chapter.

17880. The authority is hereby authorized to do all of the following:

(a) Adopt bylaws for the regulation of its affairs and the conduct of its business.

(b) Adopt rules and regulations, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of the Government Code, for the implementation of this chapter.

(c) Adopt an official seal.

(d) Sue and be sued in its own name.

(e) Receive and accept gifts, grants, or donations of money for any of the purposes of this chapter from any of the following:

(1) A federal agency.

(2) A state agency.

(3) A municipality, county, or other political subdivision of the state.

(4) An individual, association, or corporation.

(f) Engage the services of private consultants to render professional and technical assistance and advice in carrying out the purposes of this chapter.

(g) (1) Determine the location and character of any project to be financed under this chapter, and acquire, construct, enlarge, remodel, renovate, alter, improve, furnish, equip, own, maintain, manage, repair, operate, lease as lessee or lessor, or regulate the same.

(2) Designate a participating school district as its agent, with authority to enter into contracts, for any of the purposes specified in paragraph (1).

(3) Enter into contracts for any of the purposes specified in paragraph (1).

(4) Enter into contracts for the management and operation of a project owned by the authority.

(h) Acquire, directly or by and through a participating school district as its agent, by purchase solely from funds provided pursuant to this chapter, or by gift or devise, and sell, by installment or otherwise, property, rights, rights-of-way, franchises, easements, and other interests in lands, including, but not limited to, lands lying under water, and riparian rights, located within the state which the authority deems necessary or convenient for the acquisition, construction, financing, or operation of a project. The authority may do so upon the terms, and at the prices, it considers reasonable and upon which it can agree with the owner, and may take the title to the interest in the name of the authority or in the name of a participating school district as its agent.

(i) Receive and accept from any source loans, contributions, or grants for, or in aid of, the construction, financing, or refinancing of all or part of a project, in the form of money, property, labor, or other things of value.

(j) Pursuant to an agreement between the authority and the participating school district, make, directly or through a lending institution, secured or unsecured loans to, or purchase secured or unsecured loans from, a participating school district for any of the following purposes:

(1) To finance a project or provide working capital No loan for

these purposes shall exceed the total cost of the project, as determined by the participating school district and approved by the authority.

(2) To refinance indebtedness incurred by the participating school district in connection with projects undertaken, educational facilities acquired, or working capital financed.

(k) Upon the terms and conditions the authority deems proper, lease a project being financed pursuant to this chapter to a participating school district, and charge and collect rent therefor. The authority may terminate a lease pursuant to this subdivision upon the lessee's failure to comply with any of its obligations under the lease. The lease may include any of the following provisions:

(1) That the lessee shall have the option to renew the term of the lease for the period or periods, and at the rent, determined by the authority, or to purchase any or all of the project.

(2) That upon payment by the participating school district of all of the indebtedness incurred by the authority for the financing of the project or for the refinancing of the district's outstanding indebtedness, the authority may convey any or all of the project to the lessee or lessees, with or without further consideration.

(*l*) Charge and equitably apportion among participating school districts its administrative costs and expenses incurred pursuant to this chapter.

(m) (1) Obtain, or aid in obtaining, from any state or federal agency or any private company, any insurance, guarantee, letter, or line of credit regarding, or of, or for, the payment or repayment of all or part of the interest, principal, or both, on any loan, lease, or obligation, or any instrument evidencing or securing the same, made or entered into pursuant to this chapter, or on any bonds issued pursuant to this chapter.

(2) Notwithstanding any other provision of this chapter, enter into any agreement, contract, or any other instrument regarding any insurance, guarantee, letter, or line of credit specified in paragraph (1), and accept payment in the manner and form provided therein in the event of default by a participating school district.

(3) Assign any insurance, guarantee, letter, or line of credit specified in paragraph (1) as security for bonds issued by the authority.

(n) Enter into any agreements or contracts, including, but not limited to, agreements for liquidity or credit enhancement, execute any instruments, and any other act or thing necessary, convenient, or desirable for the purposes of the authority or to carry out any express power granted the authority pursuant to this chapter.

(o) At the discretion of the authority, invest any moneys held in reserve or in sinking funds, or any moneys not required for immediate use or disbursement, in obligations authorized by the resolution authorizing the bonds secured by the investment, or by law governing the investment of trust funds in the custody of the Treasurer.

17881. (a) The California School Finance Authority Fund is hereby created in the State Treasury, to be administered by the authority. Notwithstanding Section 13340 of the Government Code, all moneys in the fund shall be continuously appropriated without regard to fiscal year for the purposes of this chapter. 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 pursuant to this chapter. For that purpose, or as necessary or convenient to the accomplishment of any other purpose of this chapter, the authority may divide the fund into separate accounts. All moneys accruing to the authority pursuant to this chapter from any source shall be deposited in the fund.

(b) Subject to any priorities created by the pledge of particular moneys in the fund to secure any issuance of bonds of the authority, and to reasonable administrative costs incurred by the authority in implementing this chapter, all moneys in the fund, regardless of the 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 while any bonds are outstanding and unpaid. Nothing in this subdivision shall be construed to limit the power of the authority to make loans with bond proceeds in accordance with the terms of the resolution authorizing the issuance of those bonds.

(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 the assets, revenues, or moneys in the manner prescribed by the agreements.

(d) From time to time, the authority may direct the Treasurer to do any of the following:

(1) Invest moneys in the fund which are not required for its current needs, including, but not limited to, proceeds from the sale of any bonds in eligible securities specified in Section 16430 of the Government Code and designated by the authority, or in any other securities or obligations designated by the authority, in the resolution authorizing the issuance of the bonds payable or secured by the moneys.

(2) Deposit moneys in the fund in interest bearing accounts in state or national banks or other financial institutions having principal offices in the state.

(3) Tranfer 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 4 of Division 4 of Title 2 of the Government Code.

Notwithstanding Section 16305.7 of the Government Code, all interest or other earnings resulting from an investment or deposit pursuant to this subdivision shall be deposited in the fund.

(e) Except as otherwise provided in paragraph (3) of subdivision (d), no moneys in the fund shall be subject to transfer to any other fund pursuant to any provision of Part 2 (commencing with Section

16300) of Division 4 of Title 2 of the Government Code.

17882. (a) Except as otherwise provided in subdivision (b), all expenses incurred by the authority in implementing this chapter shall be payable solely from funds appropriated for purposes of this chapter, and the authority shall not incur liabilities in excess of the amount of those funds.

(b) For purposes of meeting the necessary expenses of initial organization and operation of the authority until it derives money from funds provided to it pursuant to this chapter, the authority may borrow such moneys as it may require. Moneys borrowed pursuant to this subdivision shall subsequently be charged to, and apportioned among, participating school districts in an equitable manner, and repaid with appropriate interest over a reasonable period of time.

17883. (a) From time to time, the authority may, by resolution, issue its revenue bonds in order to provide funds for any of the purposes of this chapter. Bonds may be issued to finance any of the following:

(1) A single project or financing of working capital for a single participating school district.

(2) A series of projects or financings of working capital for a single participating school district.

(3) A single project or financing of working capital for several participating school districts.

(4) Several projects or financing of working capital for several participating school districts.

(b) Except as otherwise expressly provided by the authority, all revenue bonds shall be payable from any available revenues or moneys of the authority not otherwise pledged, subject only to any agreements with holders of particular bonds or notes pledging any particular revenue or moneys. Notwithstanding that revenue bonds issued pursuant to this section may be payable from a special fund, the revenue bonds shall be, and shall be deemed to be for all purposes, negotiable instruments, subject only to the provisions of the revenue bonds for registration.

(c) The revenue bonds of the authority may be issued as serial bonds, term bonds, or the authority, in its discretion, may issue bonds of both types. The issuance shall be in accordance with the indenture, trust agreement, or resolution relating to the revenue bonds, which shall provide all of the following:

(1) The date or dates of the bonds.

(2) The date or dates upon which the bonds will mature, not to exceed 40 years from their respective dates.

(3) The interest rate or rates of the bonds.

(4) When the bonds are payable.

(5) The denominations of the bonds.

(6) The form of the bonds, which shall be either bearer or registered.

(7) The registration privileges of the bonds.

(8) The manner in which the bonds are to be executed.

(9) The place or places at which the bonds shall be payable in lawful money of the United States of America.

(10) The terms of redemption of the bonds.

(d) After giving due consideration to the recommendations of the participating school district or districts, the revenue bonds of the authority shall be sold by the Treasurer at either a public or private sale at a price or prices, and upon the terms and conditions prescribed by the authority. The revenue bonds of the authority may be fixed at, above, or below the par value of the bonds.

(e) Pending the preparation of the definitive bonds, the authority may issue interim receipts or certificates or temporary bonds which shall be exchanged for the definitive bonds.

(f) Any resolution authorizing the issuance of any bonds of the authority, or any issue of revenue bonds of the authority, may include any of the following provisions:

(1) Provisions pledging all or any part of the proceeds of the bonds or revenue of a project or loan.

(2) Provisions concerning the replacement of mutilated, destroyed, stolen, or lost bonds.

(3) Provisions specifying insurance to be maintained on the project and the authorized uses of the proceeds of the insurance.

(4) Covenants against the mortgaging or otherwise encumbering, selling, leasing, pledging, placing a charge upon, or otherwise disposing of the project prior to the payment of the bonds issued to finance the project.

(5) Provisions specifying the events of default, terms upon which the bonds may be declared due before maturity, and the terms upon which the declaration and its consequences may be waived.

(6) The rights, liabilities, powers, and duties arising upon the breach of any covenants, conditions, or obligations.

(7) Vesting of the right to enforce covenants in a trustee.

(8) The terms upon which all or any percentage of the bondholders may enforce covenants or duties.

(9) Procedures for amending the terms of the resolution, with or without the consent of the holders of a specified number of bonds.

(10) Provision for any other acts or things deemed necessary, convenient, or desirable by the authority to secure the bonds or improve their marketability.

(g) The validity of the authorization and issuance of any bond issue shall not be affected by proceedings for the acquisition, construction, or improvement of any project, or by contracts relating to those proceedings. Any resolution authorizing the issuance of any bonds of the authority may provide authorization for the bonds to bear a statement certifying that they are issued pursuant to this chapter. Bonds bearing such a statement shall be conclusively deemed valid and issued in conformity with this chapter. Reference on the face of the bonds to the resolution by its date of adoption shall incorporate the provisions of the resolution and of this chapter into the terms of the bonds.

(h) Members of the authority, or any person executing the revenue bonds of the authority, shall not incur personal liability on the bonds, nor shall these persons incur personal liability or accountability by reason of the issuance of the revenue bonds of the authority.

(i) The authority is authorized, out of any funds available for that purpose, to purchase revenue bonds of the authority. The authority may hold, pledge, cancel, or resell any bonds purchased under the authority of this subdivision, subject to, and in accordance with, agreements with bondholders.

17883.5. In enacting this chapter, it is the intent of the Legislature to provide financing only for projects demonstrated by the participating school district to be financially feasible. In demonstrating financial feasibility, the participating school district may take into account all district funds, and may base future projections upon historical experience or reasonable expectations, or a combination thereof. Nothing in this section shall be construed to imply that any project is required to produce revenue in order to be financed under this chapter.

17884. (a) In the discretion of the authority, any revenue bonds of the authority issued under this chapter may be secured by a trust agreement, or by indenture by and between the authority and a corporate trustee or trustees, including the Treasurer or any trust company or bank having the powers of a trust company within or outside the state.

(b) Any trust agreement, indenture, or any resolution providing for the issuance of bonds of the authority, may pledge or assign the proceeds of the bonds, and the revenues to be received by, a participating school district or districts.

(c) Any trust agreement, indenture, or resolution providing for the issuance of revenue bonds of the authority may include any provisions for the protection of, and the enforcement of the rights and remedies of, bondholders as may be reasonable and proper and not in violation of any law, including provisions included in any resolution or resolutions of the authority provided under subdivision (a) or (b).

(d) Any trust agreement or indenture may prescribe the rights and remedies of the bondholders, and of the trustee or trustees, and may restrict the individual right of action of the bondholders.

(e) Any trust agreement, indenture, or resolution may include any other provisions deemed by the authority to be reasonable and proper for the security of the bondholders.

(f) Notwithstanding any other provision of law, the Treasurer shall not be deemed to have a conflict of interest by reason of his or her capacity as trustee pursuant to this chapter.

17885. (a) Revenue bonds issued under this chapter are not and shall not be deemed to constitute a debt or liability of the state, or any political subdivision thereof, and are not and shall not be deemed to be a pledge of the faith and credit of the state, or any political

subdivision thereof, other than the authority. Revenue bonds of the authority shall be payable solely from funds provided under this chapter.

(b) Each revenue bond of the authority shall include a statement on the face of the bond that neither the State of California nor the authority is obligated to pay the principal or interest thereon, except from revenues of the authority, and shall also include a statement that neither the faith or credit, nor the taxing power of the State of California, nor any political subdivision, is pledged to the payment of the principal or interest of the bonds.

(c) The issuance of revenue bonds under this chapter shall not directly, indirectly, or contingently obligate the state, or any political subdivision thereof, to levy or pledge any form of taxation, or make any appropriation for their payment.

17886. (a) Any holder of revenue bonds issued under this chapter, or any coupons appertaining thereto, or the trustee or trustees under any trust agreement, indenture, or resolution, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any rights conferred under state law, by this chapter, or under the terms of any trust agreement, indenture, or resolution, except to the extent that these rights may be otherwise restricted by any resolution authorizing the issuance of these bonds, or by any trust agreement or indenture securing these bonds.

(b) Any holder of revenue bonds issued under this chapter, or any coupons appertaining thereto, or the trustee or trustees under any trust agreement, indenture, or resolution, may enforce and compel the performance of all duties required under this chapter, or by any trust agreement, indenture, or resolution, to be performed by the authority, or by any officer, employee, or agent of the authority.

17887. All moneys received under this chapter, whether received as proceeds from the sale of revenue bonds or as revenues, are trust funds to be held and applied solely as provided in this chapter. Any officer, bank, or trust company with whom those moneys have been deposited, shall act as trustee of those moneys and shall hold and apply them for those purposes, subject to the requirements of this chapter and the resolution authorizing the bonds of any issue, or the trust agreement or indenture securing those bonds, may provide.

17888. (a) The authority may provide for the issuance of the revenue bonds of the authority for the purpose of refunding any bonds, or any series or issue of the revenue bonds of the authority then outstanding, and may include the payment of any redemption premium for those bonds and any interest accrued or to accrue to the date of redemption and purchase or maturity of those bonds.

(b) The proceeds of any bonds issued for the purpose of refunding of outstanding bonds may, in the discretion of the authority, be applied to the purchase or redemption prior to maturity or retirement at maturity of the outstanding bonds on their earliest or any subsequent redemption date or upon the purchase or at the

maturity thereof, or paid to a third person to assume the authority's obligation to make those payments, and may, pending that application, be placed in escrow to be applied to the purchase or retirement at maturity or redemption on any date or dates as may be determined by the authority.

(c) Any escrowed proceeds, pending such use may be invested and reinvested in obligations or securities authorized by resolution of the authority, maturing at any time or times as shall be appropriate to assure the prompt payment, as to principal, interest, and redemption premium, if any, of the outstanding bonds to be so refunded. The interest, income and profits, if any, earned or realized on any investment may also be applied to the payment of the outstanding bonds to be so refunded or of interest in the refunding bonds. After the terms of the escrow have been fully satisfied and carried out, any balance of proceeds and interest, income profits, if any, earned or realized on the investments thereof may be returned to the authority for use by it in any lawful manner.

(d) All refunding bonds are subject to the provisions of this chapter, in the same manner and to the same extent, as other bonds issued pursuant to this chapter.

17889. (a) Revenue bonds issued by the authority under this chapter shall be designated as securities in which all banks, bankers, savings banks, trust companies, and other persons engaged in a banking business; all insurance companies, insurance associations, and other persons carrying on an insurance business; any administrators, executors, guardians, trustees, and other fiduciaries; and any other persons who are now or who may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest any funds, including capital belonging to them or within their control.

(b) Revenue bonds issued by the authority under this chapter, other notes or securities, or obligations are hereby made securities which may properly and legally be deposited with, and received by, any state or municipal officer, or agency of the state for any purpose for which the deposit of bonds or other obligations of the state are, or may hereafter be, authorized by law.

17890. (a) Any bonds issued under this chapter, their transfer, and income therefrom shall at all times be free from taxation of every kind by the state and by all political subdivisions of the state.

(b) The authority is not required to pay any taxes or assessments upon, or with respect to, any project or property acquired by or for the authority under this chapter, or upon any income therefrom, or on or from any other assets or operations of the authority.

17891. (a) The State of California pledges and agrees with the holders of the bonds issued pursuant to this chapter, and with those parties who may enter into contracts with the authority pursuant to the provisions of this chapter, that the state will not limit, alter, or restrict the rights hereby vested in the authority to finance educational facilities. The State of California pledges and agrees to

fulfill the terms of any agreements made with the holders of bonds authorized by this chapter, and with the parties who may enter into contracts with the authority pursuant to this chapter, and pledges and agrees not to impair the rights or remedies of the holders of any revenue bonds or any parties until the bonds, together with interest, are fully paid and discharged and any contracts are fully performed on the part of the authority.

(b) The authority shall have the right to include the pledges made pursuant to this section in its revenue bonds and contracts.

17892. (a) Pledges by or to the authority of revenues, moneys, accounts, accounts receivable, contract rights, or other rights to payment of any other kind made by or to the authority pursuant to this chapter shall be valid and binding from the time the pledge is made for the benefit of the pledges, and the successors thereto.

(b) The revenues, moneys, accounts, accounts receivable, and other rights to payment of any other kind pledged and thereafter received by the authority or its assignees, shall immediately be subject to the lien of the pledge without physical delivery, or any further act. The lien of any pledge shall be valid and binding against all parties, irrespective of whether the parties have notice of the claim. The trust agreement, indenture, resolution, or other instrument by which any pledge is created need not be recorded.

17893. (a) The authority shall fix, revise, charge, and collect rents for the use of each project owned by the authority, and may contract with any person, partnership, association, corporation, or other body, whether public or private, for that purpose. Any lease entered into by the authority with a participating school district, and each agreement, note, or other instrument evidencing the obligations of a participating school district to the authority, shall provide that the rents or principal, interest, and other charges payable by the participating school district shall be sufficient at all times to provide for all of the following:

(1) To pay the principal, sinking fund payments, if any, premiums, if any, and the interest on outstanding bonds of the authority issued in respect of the project when due and payable.

(2) To create and maintain reserves which may, but need not necessarily be required or provided for, in the resolution relating to the revenue bonds of the authority.

(3) To pay its share of the administrative costs and expenses of the authority.

(b) The authority shall pledge the revenues derived and to be derived from a project or from a participating school district for the purposes specified in paragraphs (1), (2), and (3) of subdivision (a). The authority may issue additional revenue bonds which may be ranked on a parity with other bonds relating to the project to the extent, and under the terms and conditions provided, in the bond resolution.

(c) The authority and a participating school district may include in any lease or agreement between them or with a credit provider

any terms and conditions relating to insurance, liquidity, or credit enhancement of the bonds, or any other lawful terms and conditions the authority deems necessary or desirable to facilitate the purposes of this chapter.

17894. The authority may authorize any participating school district to act as its agent in the performance of acts specifically approved by the authority, and all acts required under Article 3 (commencing with Section 39140) of Chapter 1 of Part 23. The authorizations may include, but are not necessarily limited to, all of the following:

(a) The selection of school sites.

(b) The securing of appraisals.

(c) Contracts for architectural services.

(d) The advertisement for construction bids and the entry into contracts for construction.

(e) The purchase of furniture and equipment.

17895. Whenever the principal and interest on bonds issued by the authority to finance the cost of a project, or to refinance the outstanding indebtedness of one or more participating school districts, including any refunding bonds issued to refund and refinance those bonds, have been fully paid or retired, or whenever adequate provision has been made to fully pay and retire the bonds, and all other conditions of the resolution, lease, trust indenture and any security interest, or any other instrument or instruments authorizing and securing the bonds have been satisfied and the lien of security interest has been released in accordance with those provisions, the authority shall promptly provide for and execute any releases, release deeds, reassignments, deeds, and conveyances as are necessary and required to convey or release its rights, title, and interest in the project financed, to the participating school districts.

17896. (a) This chapter shall be deemed to provide a complete, additional, and alternative method for accomplishing the acts authorized in this chapter, and shall be deemed as being supplemental and additional to the powers conferred by other applicable laws, except that the issuance of revenue bonds and refunding bonds and the undertaking or projects or financings under this chapter need not comply with the requirements of any other laws applicable to the issuance of bonds, including, without limitation, Division 13 (commencing with Section 21000) of the Public Resources Code.

(b) Except as provided in subdivision (a), the financing of a project under this chapter shall not exempt a project from any of the requirements of law which are otherwise applicable to the project.

17897. To the extent that the provisions of this chapter are inconsistent with any other provisions of any general statute, or a special act or parts thereof, the provisions of this chapter shall be deemed controlling.

17898. Any net earnings of the authority beyond that necessary for the retirement of any obligations issued by the authority, or to

implement the purposes of this chapter, may inure only to the benefit of the State of California or the authority.

17899. Upon the dissolution of the authority, title to all property owned by the authority shall vest in the successor authority created by the Legislature, if any, if the successor authority meets the requirements of Section 103 of the federal Internal Revenue Code of 1954, as amended, and its implementing regulations, as an authority entitled to issue obligations on behalf of the State of California, the interest from which is exempted from federal income taxation.

In the event that a successor authority is not created, title to all property owned by the authority shall vest in the State of California.

17899.1. (a) Any participating school district, exclusively for the purpose of securing financing of projects or working capital through the issuance of revenue bonds by the authority, and notwithstanding any other provision of law, may borrow money or lease educational facilities from the authority, and in connection therewith, lease property to the authority, at any interest rate or rates, rental provisions, with any maturity date or dates or term, and with any other payment, security, default, remedy, and other terms or provisions as may be specified in a loan, loan purchase, lease, or other agreement between the authority and the participating school district, subject to the following conditions:

(1) The sum of the amount borrowed and the interest payable thereon shall not exceed 85 percent of the estimated amount of uncollected taxes, income, revenue, cash receipts, and other district funds which will be available in any fiscal year for the repayment of the loan and the interest thereon. For purposes of this paragraph, "revenue" includes, but is not limited to, federal and state funds received by the district.

(2) In computing the maximum amount which may be borrowed in any fiscal year pursuant to paragraph (1), the district may exclude the amount of any principal or interest which is secured by a pledge of the amount in any inactive or term deposit of the district which has a term scheduled to terminate during that fiscal year.

(3) A participating school district that borrows money to finance working capital pursuant to this subdivision shall be required to repay and discharge the loan within 15 months of the loan date.

(4) In enacting this chapter, it is the intent of the Legislature to provide financing of working capital needed to cover temporary or cash flow deficits and needs for working capital and not long-term budget deficits or shortfalls in funding. The participating school district must demonstrate to the satisfaction of the authority that, during the term of any loan received pursuant to this chapter, the participating school district will receive or otherwise have (without additional borrowing) sufficient funds to repay and discharge the loan. The participating school district may take into account all district funds and may base future projections upon historical experience or reasonable expectations, or a combination thereof.

(b) Any participating school district may enter into any

agreement for liquidity or credit enhancement, with any reimbursement, interest, security, and other terms it may deem necessary or appropriate in connection with the borrowing of money or the lease of educational facilities, whichever is applicable.

(c) This section shall be deemed to provide a complete, additional, and alternative method for accomplishing the acts authorized by this section, and the borrowing of money or lease of educational facilities from the authority. Any agreement entered into in connection with the borrowing of money or the lease of educational facilities, including, without limitation, any agreement for liquidity or credit enhancement in connection with it under this section, need not comply with the requirements of any other law applicable to borrowing, leasing, or credit, as the case may be, by a school district.

17899.2. An action may be commenced under Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure to determine the validity of any issuance or proposed issuance of revenue bonds, the loan of the proceeds thereof, the lease of facilities financed or refinanced under this chapter, or the legality and validity of any proceedings previously taken or proposed in a resolution of the authority to be taken for the authorization, issuance, sale, and delivery of the bonds, for the use of the proceeds thereof, or for the payment of the principal and interest thereon.

17899.3. (a) The total amount of revenue bonds which may be issued and outstanding at any time under this chapter shall not exceed two hundred fifty million dollars ($250,000,000).

(b) For purposes of subdivision (a), bonds which meet any of the following conditions shall not be deemed to be outstanding:

(1) Bonds which have been refunded pursuant to Section 17888.

(2) Bonds for which money or securities in amounts necessary to pay or redeem the principal, interest, or any redemption premium on the bonds have been deposited in trust.

CHAPTER 1439

An act to amend Sections 25334.5, 25356, and 25360 of, and to add Sections 25335, 25351.1, and 25355.5 to, the Health and Safety Code, relating to hazardous substances, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 25334.5 of the Health and Safety Code is amended to read:

25334.5. (a) The department shall prepare, as part of the Governor's Annual Budget, a site-specific plan of expenditures for removal and remedial actions to be paid for pursuant to Section 25385.6. The department shall include, in the plan, a review of the status of each removal and remedial action, including, but not limited to, the major tasks and deadlines, the priority ranking of these sites for cleanup by the department and the federal government, the remedial action plan approval schedule, the progress on a cooperative agreement with the federal government, negotiations with responsible parties, and the projected revenue sources. The department shall update this plan annually by detailing any changes in the plan, and shall also update the plan as specified in subdivisions (b) and (c). The department shall also include, in the plan, a projection of the cash flow for each remedial and removal action for at least a five-year period, including a review of receipts from responsible parties, cost recovery actions, federal moneys, and loan payments.

(b) The department shall periodically update the expenditure plan to reflect any changes in the priority ranking of sites when this list is revised pursuant to Section 25356, including the addition of newly ranked sites.

(c) The director shall notify the Chairperson of the Joint Legislative Budget Committee, the chairperson of the policy committee of the Assembly designated by the Speaker of the Assembly, and the chairperson of the policy committee of the Senate designated by the Senate Rules Committee, in writing, at least 30 days before adding new sites to the expenditure plan or changing the priority ranking of sites in the expenditure plan.

SEC. 2. Section 25335 is added to the Health and Safety Code, to read:

25335. The department shall submit requests to transfer funds appropriated in schedules (b) and (c), as set forth in Section 7 of the act that enacted this section, together with supporting information and an expenditure plan, to the policy committee of the Assembly designated by the Speaker of the Assembly and the policy committee of the Senate designated by the Senate Rules Committee for review and approval. The requests shall be submitted to the policy committee of the Assembly designated by the Speaker of the Assembly and the policy committee of the Senate designated by the Senate Rules Committee not later than 30 days, or any lesser period of time determined by the chairpersons of the committees, before submitting requests for authorization to expend the funds to the Hazardous Substance Cleanup Committee, as required by Section 25385.6. If both the policy committee of the Assembly designated by the Speaker of the Assembly and the policy committee of the Senate designated by the Senate Rules Committee disapproves the request, by a majority vote of each committee membership, the Hazardous

Substance Cleanup Committee shall not authorize the department to expend the funds. If either the policy committee of the Assembly designated by the Speaker of the Assembly or the policy committee of the Senate designated by the Senate Rules Committee fails to take any action to approve or disapprove the requested transfer of funds within 30 days after submittal of the request, or if only one committee disapproves the request, the Hazardous Substance Cleanup Committee may authorize the department to expend the funds.

SEC. 3. Section 25351.1 is added to the Health and Safety Code, to read:

25351.1. (a) Except as provided in subdivision (b), and notwithstanding Section 13340 of the Government Code, there is hereby transferred annually from the state account to the Hazardous Substance Clearing Account, and appropriated therefrom, the sum of five million dollars ($5,000,000) for the payment of the principal of, and interest on, bonds sold pursuant to Article 7.5 (commencing with Section 25385).

(b) Each year, the sum transferred and appropriated pursuant to subdivision (a) shall be reduced by the amounts recovered pursuant to Section 25360 and deposited in the Hazardous Substance Clearing Account during the previous calendar year.

(c) This section shall become operative on July 1, 1987.

SEC. 4. Section 25355.5 is added to the Health and Safety Code, to read:

25355.5. (a) Except as provided in subdivisions (b), (c), and (d), no money shall be expended from the Hazardous Substance Account or the Hazardous Substance Cleanup Fund for removal or remedial actions on any site selected for inclusion on the list established pursuant to Section 25356, unless the department first takes both of the following actions:

(1) The department issues one of the following orders or enters into the following agreement:

(A) The department issues an order specifying a schedule for compliance or correction pursuant to Section 25187.

(B) The department issues an order establishing a schedule for removing or remedying the release of a hazardous substance at the site, or for correcting the conditions that threaten the release of a hazardous substance. The order shall include, but is not limited to, requiring specific dates by which necessary corrective actions shall be taken to remove the threat of a release, or dates by which the nature and extent of a release shall be determined and the site adequately characterized, a remedial action plan shall be prepared, the remedial action plan shall be submitted to the department for approval, and a removal or remedial action shall be completed.

(C) The department enters into an enforceable agreement with a potentially responsible party for the site which requires the party to take necessary corrective action to remove the threat of the release, or to determine the nature and extent of the release and

adequately characterize the site, prepare a remedial action plan, and complete the necessary removal or remedial actions, as required in the approved remedial action plan.

(2) The department determines, in writing, that the potentially responsible party or parties for the hazardous substance release site have not complied with all of the terms of an order issued pursuant to subparagraph (A) or (B) of paragraph (1) or an agreement entered into pursuant to subparagraph (C) of paragraph (1). Before the department determines that a potentially responsible party is not in compliance with the order or agreement, the department shall give the potentially responsible party written notice of the proposed determination and an opportunity to correct the noncompliance or show why the order should be modified. After the department has made the final determination that a potentially responsible party is not in compliance with the order or agreement, the department may expend money from the Hazardous Substance Account or the Hazardous Substance Cleanup Fund for a removal or remedial action.

(b) Subdivision (a) does not apply, and money from the Hazardous Substance Account or the Hazardous Substance Cleanup Fund shall be available, upon appropriation by the Legislature, for removal or remedial actions, if any of the following conditions apply:

(1) The department, after a reasonable effort, is unable to identify a potential responsible party for the hazardous substance release site.

(2) The department determines that immediate corrective action is necessary, as provided in Section 25354.

(3) The director determines that removal or remedial action at a site is necessary because there may be an imminent and substantial endangerment to the public health or welfare or to the environment.

(c) Notwithstanding subdivision (a), the department may expend funds, upon appropriation by the Legislature, from the Hazardous Substance Cleanup Fund or the Hazardous Substance Account to issue an order or enter into an enforceable agreement pursuant to paragraph (1) of subdivision (a), and to review, comment upon, and approve or disapprove remedial action plans submitted by potentially responsible parties subject to the orders or the enforceable agreement.

(d) Notwithstanding subdivision (a), the department may expend funds, upon appropriation by the Legislature, from the Hazardous Substance Cleanup Fund or the Hazardous Substance Account to provide for oversight of removal and remedial actions, or to provide the state's share of a removal or remedial action, if the site is also listed on the federal act (42 U.S.C. Sec. 9604(c)(3)).

(e) A responsible party who fails, as determined by the department in writing, to comply with an order issued pursuant to subparagraph (A) or (B) of paragraph (1) of subdivision (a), or to comply with all of the terms of an enforceable agreement entered into pursuant to subparagraph (C) of paragraph (1) of subdivision (a), shall be deemed, for purposes of subdivision (b) of Section 25355,

to have failed to take action properly and in a timely fashion with respect to a hazardous substance release or a threatened release.

SEC. 5. Section 25356 of the Health and Safety Code is amended to read:

25356. (a) The department shall adopt, by regulation, the criteria for the selection and for the priority ranking of sites for remedial action under this chapter. The criteria shall take into account the pertinent factors relating to the public health and the environment, which shall include, but are not limited to, potential hazards to public health and environment, the risk of fire or explosion, toxic hazards, the estimated costs of remedial action, the public health benefits resulting from the remedial action, and the criteria established pursuant to Section 105(8) of the federal act (42 U.S.C. Sec. 9605(8)).

(b) The department shall publish and revise, at least annually, a listing of the sites subject to this chapter. The sites shall be categorized and placed on one of the following lists:

(1) A list of the hazardous substance release sites for which the department has identified a responsible party, and the responsible party is in compliance, as determined by the department, with an order issued, or an enforceable agreement entered into, pursuant to subdivision (a) of Section 25355.5. The department may, at its discretion, rank sites on this list in accordance with the criteria adopted pursuant to subdivision (a) for the priority ranking of sites.

(2) A list of the hazardous substance release sites for which all of the following apply:

(A) The department has not been able to identify a responsible party or the responsible party is not in compliance, as determined by the department, with an order issued, or an enforceable agreement entered into, pursuant to subdivision (a) of Section 25355.5.

(B) The nature and extent of the hazardous substance release at the site has not been adequately characterized by the responsible party or the department.

The department shall characterize a site on the list before ranking the site on the list described in paragraph (3). The department may use the ranking of sites published in its January 1985 report entitled "Expenditure Plan for the Hazardous Substance Cleanup Bond Act of 1984," as revised, to establish priorities for characterizing the sites.

(3) A list of the hazardous substance release sites which were previously listed pursuant to paragraph (1), if the sites have been adequately characterized but the responsible parties are not in compliance with an order or enforceable agreement issued or entered into pursuant to subdivision (a) of Section 25355.5, or sites which were previously listed pursuant to paragraph (2) but which have since been adequately characterized by the department. Sites on the list specified in this paragraph shall be ranked in accordance with the criteria adopted for the priority ranking of sites pursuant to subdivision (a).

(c) The department's development and publication of the listings

of sites, pursuant to subdivision (b), are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(d) Funds appropriated to the department for remedial action shall be expended in conformance with the priority ranking of sites, as established on the list of sites specified in paragraph (3) of subdivision (b), except that funds appropriated for remedial action may be expended without conforming to the priority ranking if both of the following apply:

(1) The funds are necessary to monitor removal or remedial actions conducted by private parties listed pursuant to paragraph (1) of subdivision (b) or the state funds are necessary for the state share of a removal or remedial action pursuant to Section 104(c)(3) of the federal act (42 U.S.C Sec. 9604(c)(3)).

(2) The funds are used for either of the following purposes:

(A) To assess, evaluate, and characterize the nature and extent of a hazardous substance release on sites listed pursuant to paragraph (2) of subdivision (b).

(B) To carry out activities pursuant to paragraph (2) or (3) of subdivision (b), or subdivision (c) or (d) of, Section 25355.5.

(e) Funds may be expended on more than one site on the list specified in paragraphs (2) and (3) of subdivision (b) at any one time. In addition, funds may be expended for oversight of any activities conducted by a responsible party on more than one site on the list specified in paragraph (1) of subdivision (b) at any one time.

(f) This section does not require the department to characterize every site listed pursuant to paragraph (2) of subdivision (b) before the department may begin removal or remedial actions at sites listed pursuant to paragraph (3) of subdivision (b).

SEC. 6. Section 25360 of the Health and Safety Code is amended to read:

25360. Any costs incurred and payable from the state account or the Hazardous Substance Cleanup Fund shall be recovered by the Attorney General, upon the request of the department, from the liable person or persons. The amount of any costs which may be recovered pursuant to this section, for a remedial or removal action paid from the Hazardous Substance Cleanup Fund, shall include the amount paid from that fund and interest on that amount calculated at a rate equal to the interest rate of the bonds sold pursuant to Article 7.5 (commencing with Section 25385). In addition, the person or persons are liable to the department for administrative costs in an amount equal to 10 percent of the reasonable cost actually incurred, or five hundred dollars ($500), whichever is greater.

The amount of cost determined pursuant to this section shall be recoverable in a civil action. Nothing in this section deprives a party of any defense he or she may have.

Moneys recovered by the Attorney General pursuant to this section shall be deposited in the state account, except that, if the costs incurred were paid from the Hazardous Substance Cleanup Fund,

the Attorney General shall deposit the amounts recovered into the Hazardous Substance Clearing Account. Moneys deposited in the Hazardous Substance Clearing Account pursuant to this section are available to pay the principal of, and interest on, bonds sold pursuant to Article 7.5 (commencing with Section 25385).

SEC. 7. The sum of eighty-seven million seven hundred ninety-one thousand dollars ($87,791,000) is hereby appropriated from the Hazardous Substance Cleanup Fund to the State Department of Health Services, for purposes specified in Section 25385.6 of the Health and Safety Code. Notwithstanding Section 13340 of the Government Code, these funds are appropriated, and shall be available for expenditure, without regard to fiscal years, in accordance with the State Department of Health Services expenditure plan developed pursuant to Section 25334.5 of the Health and Safety Code, as specified in the following schedule:

Schedule:

(a) For the costs of removal or remedial actions incurred by the state, or by any local agency with approval of the State Director of Health Services, and for site characterization, as provided in paragraphs (2) and (3) of subdivision (b) of Section 25385.6 of the Health and Safety Code and as further provided in the expenditure plan prepared pursuant to Section 25334.5 of the Health and Safety Code	$34,341,000
(b) For the state share of a removal or remedial action pursuant to Section 104(c)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Sec. 9604(c)(3)), as provided in paragraph (1) of subdivision (b) of Section 25385.6 of the Health and Safety Code	$14,240,000
(c) For reserve for transfer to (a) or (b), pursuant to provision (4)	$32,710,000
(d) For the state's share of removal and remedial action at Stringfellow Acid Pits, up to six million five hundred thousand dollars ($6,500,000) as needed to meet the state's share of removal and remedial action costs pursuant to Section	

104(c)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Sec. 9604(c)(3)), as provided in paragraph (1) of subdivision (b) of Section 25385.6 of the Health and Safety Code.

If less than six million five hundred thousand dollars ($6,500,000) is necessary for removal and remedial action at the Stringfellow Acid Pits under this schedule, the remaining sum is transferred to Schedule (c).

Provisions:

1. The funds appropriated in Schedule (a) shall be expended in acccordance with the expenditure plan prepared by the State Department of Health Services pursuant to Section 25334.5 of the Health and Safety Code. The State Director of Health Services may approve the transfer of funds appropriated in Schedule (a) among hazardous substance release sites if the approval is based on new information regarding the availability of funding or expenditure requirements for specific hazardous substance release sites. This new information may include, but is not limited to, the identification of new funding sources, or a determination that previously projected costs for site characterization or removal or remedial actions at specific sites were overestimated or underestimated. The State Director of Health Services shall notify the Chairperson of the Joint Legislative Budget Committee, the chairperson of the policy committee of the Assembly designated by the Speaker of the Assembly, and the chairperson of the policy committee of the Senate designated by the Senate Rules Committee, in writing, at least 30 days, or any lesser period of time which each chairperson may determine, before transferring funds among sites.
2. Except as otherwise provided in Sections 25355.5 and 25356 of the Health and Safety Code, the funds appropriated in Schedule (a) or (b), or transferred to these schedules from Schedule (c), shall not be expended for response actions, including site characterization and removal or remedial action, at a hazardous substance re-

lease site when any of the following conditions apply:

(a) A responsible party for the site is in compliance, as determined by the State Department of Health Services, with the schedule for removing or remedying the release of a hazardous substance at the site or for correcting the conditions that threaten the release of a hazardous substance, as established in an order issued by the State Department of Health Services pursuant to subparagraph (B) of paragraph (1) of subdivision (a) of Section 25355.5 of the Health and Safety Code.

(b) A potentially responsible party has entered into an enforceable agreement with the State Department of Health Services pursuant to subparagraph (C) of paragraph (1) of subdivision (a) of Section 25355.5 of the Health and Safety Code, and the responsible party is in full compliance, as determined by the State Department of Health Services, with all the terms of the agreement.

(c) A responsible party for the site is in compliance, as determined by the State Department of Health Services, with an order specifying a schedule for compliance or correction issued pursuant to Section 25187 of the Health and Safety Code.

(d) A responsible party for the site has adequately responded to a determination issued by the State Director of Health Services pursuant to paragraph (3) of subdivision (b) of Section 25355.5 of the Health and Safety Code.

(e) The State Department of Health Services has failed to comply with Section 25355.5 of the Health and Safety Code.

3. The funds appropriated in Schedule (b) shall only be expended as provided in the expenditure plan prepared by the State Department of Health Services pursuant to Section 25334.5 of the Health and Safety Code. The State Director of Health Services may approve the transfer of funds appropriated in Schedule (b) among hazardous substance release sites only if both the policy committee of the Assembly designated by the Speaker of the Assembly and the policy

committee of the Senate designated by the Senate Rules Committee do not disapprove, as provided in Section 25335 of the Health and Safety Code.

4. The funds appropriated in Schedule (c) are available for expenditure only upon transfer to Schedule (a) or (b). Notwithstanding any other provision of law, the funds appropriated pursuant to Schedule (c) may only be transferred as provided in this section. The State Director of Health Services may approve the transfer of funds from schedule (c) to Schedules (a) or (b) if both the policy committee of the Assembly designated by the Speaker of the Assembly and the policy committee of the Senate designated by the Senate Rules Committee do not disapprove, pursuant to Section 25335 of the Health and Safety Code. Funds may be transferred from Schedule (c) to Schedule (a) or (b) for any of the following purposes:
   (a) To augment the funds appropriated in Schedule (a), as needed, to pay the costs of site characterization and removal or remedial actions at hazardous substance release sites.
   (b) To augment the funds appropriated in Schedule (b) when any of the following conditions apply:
      (i) The funds appropriated in Schedule (b) are not sufficient to pay the state share of a removal or remedial action at a hazardous substance release site.
      (ii) Federal funds for a removal or remedial action undertaken pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Secs. 9601 et seq.) are not made available by the federal government or are delayed and the State Director of Health Services determines that delay in responding to a hazardous substance release will result in substantially higher costs in taking the removal or remedial action.
   (c) To augment the funds appropriated in Schedule (a) or (b) when the State Director of Health Services determines that immediate response action at a site to contain

or limit the migration of a hazardous substance release will substantially reduce the final cost of taking removal or remedial action at the site.

5. Sufficient funds shall be retained from the $32,710,000 in Schedule (c) to ensure availability of state matching funds at Stringfellow Acid Pits. The department shall provide the Legislature with a cost estimate for removal and remedial actions at Stringfellow Acid Pits at Stringfellow not later than January 1, 1986.

SEC. 8. Notwithstanding any other provision of law, any funds in the Hazardous Substance Account which remain unobligated and unencumbered as of June 30, 1985, as determined by the department, shall remain available for encumbrance and expenditure by the department until June 30, 1986.

SEC. 9. Notwithstanding any other provision of law, proceeds from the sale of bonds authorized by the Johnston-Filante Hazardous Substance Cleanup Bond Act of 1984 (Article 7.5 (commencing with Section 25385) of Chapter 6.8 of Division 20 of the Health and Safety Code) may be used to fund expenditures made by the State Department of Health Services which commenced on or after January 1, 1985, for the purposes specified in Section 25385.6 of the Health and Safety Code.

SEC. 10. Notwithstanding any other provision of law, the State Department of Health Services may use the authorization for the sale of bonds by the Hazardous Substance Cleanup Committee as the basis for encumbering funds for site characterization and for contracting for removal and remedial actions. However, the State Department of Health Services shall not encumber these funds for an amount which exceeds the amounts appropriated in Schedules (a) and (b) of Section 7 of this act and the additional amounts that are transferred from Schedule (c) to Schedules (a) and (b) pursuant to provision (4) of Section 7 of this act.

SEC. 11. The policy committee of the Assembly designated by the Speaker of the Assembly and the policy committee of the Senate designated by the Senate Rules Committee shall assume primary responsibility for providing close legislative scrutiny over the implementation and administration of the Carpenter-Presley-Tanner Hazardous Substance Account Act (Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code), including the Johnston-Filante Hazardous Substance Cleanup Bond Act of 1984 (Article 7.5 (commencing with Section 25385) of Chapter 6.8) and any other act that provides funding for state or local removal and remedial actions in response to releases of hazardous substances, pursuant to the Carpenter-Presley-Tanner Hazardous Substance Account Act.

SEC. 12. This act is an urgency statute necessary for the immedi-

ate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Since many hazardous substance release sites have been identified as posing a substantial threat to the public's health and safety, it is necessary to immediately implement the Johnston-Filante Hazardous Substance Cleanup Bond Act of 1984, as approved by the voters at the November 6, 1984 general election, to clean up these sites.

CHAPTER 1440

An act to amend Section 60248 of, to add Section 60247.5 to, to add Articles 23 (commencing with Section 8480) and 24 (commencing with Section 8493) to Chapter 2 of Part 6 of, and to add Article 4.7 (commencing with Section 42300) to Chapter 7 of Part 24 of, the Education Code, to amend Section 15463 of the Government Code, and to add Section 2549 to the Streets and Highways Code, relating to fiscal affairs, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

I am reducing the appropriation in Assembly Bill No 1024 from $117,779,500 to $117,279,500 by deleting the $500,000 appropriation in Section 19 for workshops concerning the California Medi-Cal Reform Act

While I agree to set aside these funds for the purpose indicated, I believe the workshops are the appropriate responsibility of the Department of Health Services, rather than the California Medical Assistance Commission

With this deletion, I am approving Assembly Bill No. 1024

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Article 23 (commencing with Section 8480) is added to Chapter 2 of Part 6 of the Education Code, to read:

Article 23. Child Supervision Programs

8480. The governing board of any school district conducting instruction for students in any grade level up to, and including, the completion of junior high school may establish a program of affordably priced supervision for children before and after school.

8481. Child supervision programs conducted pursuant to this article shall be licensed or exempt programs administered and monitored by the school district. Programs may be staffed by district personnel or may be subcontracted to qualified private or nonprofit, or other public agencies. Each program shall be designed by administrators of the district to fit the needs at each school or site where a program is conducted.

8482. Child supervision programs conducted pursuant to this article shall consist of supervised activities including, but not limited to, arts and crafts, sports, quiet games, playground time and snacks, and homework. Computer training may also be made available. Extra enrichment programs and study trips may be made available for a fee which shall be paid by the children's parents or guardians.

8483. Each school which elects to establish a child supervision program shall apply to the State Department of Education for a grant for each program of up to four thousand dollars ($4,000). Grants for the new programs established pursuant to this section shall be allocated to programs that meet both the following requirements:

(a) Have conducted a needs assessment of the local community.

(b) Provide for a viable program plan.

The grants may be used for any of the following: one month's staffing cost, snacks, and the purchase of sports equipment, games, computers, and supplies as indicated by the budget submitted by the district. After the program is operating, the district shall maintain the program through the fees charged the parents and guardians of the children in the program. The fee may be the same for each child regardless of family income or the number of hours a child participates in the program so that the selfsupporting nature of the program is assured. School programs shall seek funding from local business, community, and philanthropic organizations to ensure that no needy child who desires to participate shall be denied the opportunity to participate because of inability to pay the fee. No one who desires to participate in the program shall be denied the opportunity to participate because of inability to pay the fee. The state department shall fund up to 250 programs.

SEC. 2. Article 24 (commencing with Section 8493) is added to Chapter 2 of Part 6 of the Education Code, to read:

Article 24. Child Care and Development Facilities Capital Outlay

8493. It is the intent of the Legislature that funds be appropriated for capital outlay for purposes of providing facilities for child care and development services provided pursuant to this chapter, including, but not limited to, all of the following purposes:

(a) For the purchase of relocatable facilities by the state for lease to qualifying contracting agencies in areas with no available economically practical or feasible child care and development facilities.

(b) For renovation and repair of child care and development facilities in order to comply with state and local health and safety standards and licensing requirements, without unnecessarily increasing the value of the facility.

8494. (a) All of the following child care and development programs, other than those providing extended day care services, shall be eligible to receive a loan for the renovation and repair of

facilities used for the program or to lease relocatable facilities to be used for the program:

(1) Private nonprofit child care and development programs currently, or soon to be, under contract with the State Department of Education pursuant to Section 8262.

(2) Child care and development programs conducted pursuant to Article 4 (commencing with Section 8225).

(3) Child care and development programs operated by, or in a facility owned by, a public entity.

(b) A recipient of a loan pursuant to this section shall document that the renovated facility shall comply with all laws and regulations applicable to child care facilities provided for pursuant to Chapter 3.4 (commencing with Section 1596.70) and Chapter 3.5 (commencing with Section 1596.90) of Division 2 of the Health and Safety Code.

(c) A recipient of a loan pursuant to this section shall assure the board that the renovated facility shall be used for the purposes of the child care and development program for the entire loan period, which shall be determined by the board as follows:

(1) For loans equal to or less than thirty thousand dollars ($30,000), not less than three years.

(2) For loans exceeding thirty thousand dollars ($30,000), the loan period shall increase one year for each additional ten thousand dollars ($10,000) or part thereof, to a maximum of fifty thousand dollars ($50,000).

(d) Interest on the loan principal shall be charged at a rate equal to the average of the interest rate applied to the last three bond sales pursuant to Chapter 21.6 (commencing with Section 17695) of Part 10.

(e) In the event that a recipient ceases to use the renovated facility for purposes of the child care and development program prior to the expiration of the loan period, the board shall collect the entire outstanding balance of the loan, plus interest, notwithstanding the loan period originally set pursuant to subdivision (c), unless the board deems it appropriate to waive repayment at that time.

(f) If the renovated facility has been continuously used for purposes of the child care and development program for the entire loan period, the board shall waive repayment of the amount of the loan principal, plus interest, at the end of the loan period.

8495. There is hereby created in the State Treasury the State Child Care Capital Outlay Fund. Notwithstanding Section 13340 of the Government Code, all moneys in the State Child Care Capital Outlay Fund, including moneys deposited in that fund from any source whatsoever, shall be continuously appropriated without regard to fiscal year for expenditure pursuant to the provisions of this article. The fund shall be administered by the State Allocation Board, which may authorize the expenditure of any moneys in the fund for capital outlay projects pursuant to Section 8277.7 or this article.

8496. The State Allocation Board may use an amount not to exceed four hundred thousand dollars ($400,000), or 4 percent of the

total funds available for the purposes of this article, whichever is less, in any given fiscal year for necessary administrative costs incurred pursuant to this article, including, but not limited to, the establishment of new administrative positions.

8498. (a) The State Allocation Board may use up to 5 percent of any appropriation for the purposes of this article to provide loans to private nonsectarian child care and development programs not under contract with the State Department of Education for renovation and repair of existing program facilities, in accordance with this section.

(b) The Superintendant of Public Instruction shall establish qualifications to determine the eligibility of child care agencies for loans pursuant to this section.

(c) The board, with any necessary assistance from the Superintendent of Public Instruction, may do any of the following:

(1) Establish procedures and policies in connection with the administration of this section it deems necessary.

(2) Adopt rules and regulations for the administration of this section requiring procedure, forms, and information it deems necessary.

(d) A recipient of a loan pursuant to this section shall do all of the following:

(1) Document that the renovated facility shall comply with all laws and regulations applicable to child care facilities provided for pursuant to Chapter 3.4 (commencing with Section 1596.70) and Chapter 3.5 (commencing with Section 1596.90) of Division 2 of the Health and Safety Code.

(2) Demonstrate to the satisfaction of the board that it will have sufficient revenues to pay the principal and interest on the loan and to maintain the operation of the child care facility.

(e) A recipient of a loan pursuant to this section shall assure the board that the renovated facility shall be used for purposes of the child care and development program for the following periods:

(1) For loans equal to or less than thirty thousand dollars ($30,000), not less than three years from the beginning of the loan period.

(2) For loans exceeding thirty thousand dollars ($30,000), the fixed period of time shall increase one year for each additional ten thousand dollars ($10,000) or part thereof, to a maximum of fifty thousand dollars ($50,000).

(f) The board shall set the period of the loan for each recipient, up to a maximum of 10 years, based upon the amount of the loan, the recipient's ability to repay the loan, and the length of time the recipient has committed to use the renovated facility for purposes of the child care and development program.

(g) Interest on the loan principal shall be charged at a rate equal to the average of the interest rate applied to the last three bond sales pursuant to Chapter 21.6 (commencing with Section 17695) of Part 10.

(h) In the event that a recipient ceases to use the renovated facility for purposes of the child care and development program prior to the expiration of the period specified pursuant to subdivision (e), the board shall collect the entire outstanding balance of the loan, plus interest, notwithstanding the loan period originally set pursuant to subdivision (f).

SEC. 3. Article 4.7 (commencing with Section 42300) is added to Chapter 7 of Part 24 of the Education Code, to read:

Article 4.7. School Transportation

42300. Any school district or county office of education with an average daily attendance of 2,501 or more, but less than 6,000, may apply to the State Department of Education for a one-time only apportionment for the purchase of transportation equipment, as specified in Section 42301. The State Department of Education shall adopt regulations regarding district or county office applications pursuant to this section.

42301. (a) The State Department of Education shall grant applications for apportionments for purposes of this article, to the extent that funds are available, according to the following priorities:

(1) First priority for apportionments shall be for the purchase of new schoolbuses to replace existing schoolbuses owned by an eligible district or county office that do not conform to federal safety standards.

(2) Second priority for apportionments shall be for the reconditioning of existing schoolbuses owned by an eligible district or county office. For purposes of this paragraph, "reconditioning" includes, but is not limited to, retrofitting schoolbuses to conform to the federal Motor Vehicle Safety Standard 222 relating to schoolbus passenger seating and crash protection requirements.

(3) Any remaining funds shall be apportioned for the purchase of new schoolbuses by eligible districts or county offices which have proposed to increase the number of schoolbuses owned by the district or county office of education.

(4) In awarding grants, in accordance with the priorities established by paragraphs (1), (2), and (3), the State Department of Education shall give priority to eligible school districts with the smallest average daily attendance, as determined by the department.

(b) The governing board of any school district or county office of education shall be eligible to receive apportionments under this article for the replacement of schoolbuses.

(c) Any school district or county office of education receiving funds under this section shall be required to pay a percentage of the estimated cost of a new schoolbus, based upon the following calculation:

$$5 + \left[\frac{\text{Current year average daily attendance} - 1{,}000}{9{,}000} \times 25 \right]$$

Each school district or county office shall also be required to contribute 50 percent of any proceeds from the sale of any schoolbus to be replaced with a new schoolbus purchased under this article.

(d) Insofar as possible, any purchases of new schoolbuses with funds apportioned pursuant to this article shall be made by the Department of General Services. Title to any schoolbus purchased by the Department of General Services pursuant to this section shall be in the name of the school district or county office of education for which the schoolbus was purchased.

(e) The State Department of Education shall develop priority categories for funding under this section which are based solely on vehicle age and mileage. Seventy-five percent of the funds available in any fiscal year for the purposes of this section shall be distributed to school districts and county offices of education based upon priority categories that utilize only vehicle age, mileage, and type of vehicle. Twenty-five percent of the funds available in any fiscal year for purposes of this section shall be allocated based upon the condition of the vehicles to be replaced. School districts and county offices shall submit as evidence of the condition of the vehicle to be replaced, the most recent California Highway Patrol inspection report, a repair estimate made by an independent repair shop, and any other information requested by the department.

(f) The State Department of Education shall estimate the cost of a replacement vehicle of the same capacity as the vehicle being replaced. A school district's or county office's entitlement shall equal the department's estimated cost, less any contributions determined pursuant to this section. A district or county office may use additional district or county office funds to purchase a schoolbus which is more expensive than the model used by the department to estimate the cost.

(g) Funds allocated pursuant to this section shall not be used to purchase a vehicle which does not meet the schoolbus passenger seating and crash protection requirements of the federal Motor Vehicle Safety Standard 222.

42302. 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 to the Office of the Legislative Analyst of one hundred thousand dollars ($100,000) appropriated by Section 4 of the act adding this article. 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 study required by Section 42303.

42303. (a) A study shall be conducted of school transportation costs which shall report findings and make recommendations regarding the state's role in financing school transportation. The study shall include, but not be limited to, the following aspects of home-to-school transportation:

(1) The short and long-run cost of contract busing versus district-owned and operated systems.

(2) The cost and feasibility of regional and other multidistrict home-to-school transportation systems.

(3) The factors that contribute to the cost of home-to-school transportation in districts with diverse characteristics across the state.

(4) The impact of enrollment growth over the next 10 years on the need for home-to-school transportation.

(5) The use of incentives in funding formulas to encourage cost-effective local transportation programs.

(6) Alternative arrangements for financing home-to-school transportation including state, regional, multidistrict, local district, and user funds.

(b) A preliminary report for the study required by subdivision (a) shall be completed by March 31, 1986, with a final report to be submitted to the Legislative Analyst by June 30, 1986.

SEC. 6. Section 60247.5 is added to the Education Code, to read:

60247.5. (a) For the 1985–86 fiscal year only, in addition to any amounts apportioned pursuant to Section 60247, the Superintendent of Public Instruction shall apportion 30 percent of the amount appropriated by Section 8 of the act adding this section, so that each school district receives an equal amount per pupil enrolled in grades 9 through 12 in the district in the prior fiscal year for purposes of purchasing instructional materials, supplies, and equipment for use in science classes in those grade levels, and for the purpose of minor remodeling of buildings for science instruction in grades 9 through 12. No school district shall use funds apportioned pursuant to this subdivision to lease, construct, lease-purchase, or otherwise acquire any facility.

(b) Any school district that receives an apportionment pursuant to subdivision (a) and certifies to the Superintendent of Public Instruction that it has sufficient funds to provide instructional materials in the 1985–86 fiscal year for the science courses required by Section 51225.3 may redirect all or a portion of the amount received pursuant to subdivision (a) for the purchase of instructional materials in other subject areas for pupils in grades 9 through 12.

SEC. 7. Section 60248 of the Education Code is amended to read:

60248. School district governing boards shall use the funds apportioned pursuant to Section 60247 solely for the purchase of instructional and other materials, as defined in Article 2 (commencing with Section 60010) of Chapter 1, for pupils in grades 9 through 12. Textbooks purchased with these funds shall be those adopted in accordance with Sections 60400 and 60401.

SEC. 8. (a) The sum of seven million five hundred forty thousand dollars ($7,540,000) is hereby appropriated from the settlement funds received by the state pursuant to Section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. Sec. 1337(g)) to the State Instructional Materials Fund for the 1985–86 fiscal year. The funds appropriated by this subdivision shall supplement, and shall not supplant, any other funds appropriated for instructional materials by the Budget Act of 1985.

(b) Seventy percent of the funds appropriated by subdivision (a) shall be used according to Section 4 of this act, and the remaining 30 percent shall be apportioned pursuant to Section 60247.5 of the Education Code.

(c) Seventy percent of the funds appropriated by subdivision (a) shall be expended in accordance with the provisions of Article 3 (commencing with Section 60240) of Chapter 2 of Part 33 of the Education Code for the benefit of pupils enrolled in kindergarten and grades 1 through 8.

(d) Funds appropriated by subdivision (a) shall supplement, and shall not supplant or be supplanted by, any payments for public education made pursuant to Chapter 12.5 (commencing with Section 8880) of Division 1 of Title 2 of the Government Code. These funds shall be deemed to be a one-time allocation and shall not be considered an ongoing commitment for instructional materials funding.

SEC. 9. Section 15463 of the Government Code is amended to read:

15463. (a) There is hereby created in the State Treasury, the County Health Facilities Financing Assistance Fund which, notwithstanding Section 13340, is continuously appropriated for the purposes of this section.

(b) (1) The Controller shall transfer to the fund the unexpended balances from appropriations pursuant to Sections 16702 and 16703 of the Welfare and Institutions Code from the 1981–82, 1982–83, and 1983–84 fiscal years and ten million dollars ($10,000,000) from the funds subject to allocation pursuant to Section 6217 of the Public Resources Code in the 1984–85 fiscal year, after the allocations have been made pursuant to that section.

(2) Notwithstanding any other provision of law, out of the amounts received from the settlement pursuant to Section 8(g) of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. Sec. 1337(g)), the Controller shall transfer ten million dollars ($10,000,000) to the fund.

(c) Investment income derived from moneys in the fund shall be utilized by the authority to provide assistance to counties to pay the debt service on loans for, or otherwise assist in the financing of, facilities, as defined in paragraph (8) of subdivision (d) of Section 15432, by doing any of the following:

(1) Paying not more than 50 percent of the debt service on loans for those facilities or on revenue bonds issued by the authority to

finance those facilities, as determined by the authority.

(2) Paying the cost of insurance, letters of credit, lines of credit, or by utilizing other financial devices to enhance the credit of counties in order to secure the payment of debt service on loans for those facilities or on revenue bonds issued by the authority to finance those facilities.

(3) Paying costs, fees, and expenses incurred by counties or the authority in connection with issuing, carrying, or repaying the revenue bonds or financing, acquiring, or constructing those facilities.

(4) Providing any other financial, assistance or support for those facilities, including, but not limited to, payment of any outstanding indebtedness of the county for, or secured by, those facilities, as determined necessary by the authority to carry out the purpose of this subdivision.

(d) The authority may create separate accounts within the fund for each facility assisted pursuant to subdivision (c) or for each assistance program.

(e) Any moneys in the fund which are not required for immediate use or disbursement, as determined by the authority, may be invested in any obligations, as specified by the authority, including, but not limited to, obligations that are exempt from federal income taxation pursuant to Section 103 of the Internal Revenue Code of 1954, as amended, and direct obligations of the United States issued in book entry form.

(f) Notwithstanding any other provision of law, interest earned on the investment of moneys in the fund shall be credited to the fund and shall be available for the purposes specified in subdivision (c).

SEC. 12. Section 2549 is added to the Streets and Highways Code, to read:

2549. (a) Any city, county, transit operator, or the department may submit an application to the department for an advance of funds for the purchase of abandoned railroad rights-of-way pursuant to Section 99317 of the Public Utilities Code. The department shall evaluate the applications in accordance with criteria and procedures adopted by the commission and shall submit the applications and its recommendations thereon to the commission not later than February 1 of each year.

(b) The commission shall adopt criteria and procedures for the evaluation of applications by the department. The criteria shall include, but not be limited to all of the following:

(1) The viability of the right-of-way as a transit corridor.

(2) The extent of local financial participation in the acquisition.

(3) The degree to which the unacquired right-of-way is jeopardized by encroaching development.

(c) The commission shall annually adopt a priority list for the advance of funds available for the purpose of this section. The commission shall establish and forward to all applicants a preliminary list at least 30 days prior to the date of a commission hearing on the

list. The commission shall adopt the priority list, as proposed or as amended, at a subsequent commission hearing following the initial hearing. The commission shall advance funds available for the purposes of this section in accordance with the adopted priority list.

(d) Any advance of funds pursuant to this section shall be repaid within a three-year period and shall be repaid with interest at a rate equal the interest rate earned on moneys in the Pooled Money Investment Fund.

SEC. 13. The sum of one million dollars ($1,000,000) is hereby appropriated from settlement funds received by the state pursuant to Section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. Sec. 1337(g)), for allocation to the County of Ventura for the acquisition and installation, in cooperation with the Department of Transportation, of emergency callboxes along highways in the California Freeway and Expressway System located in the County of Ventura.

The department may expend these funds only upon an agreement with the County of Ventura on the location of the freeway callboxes and upon an agreement with the county and affected cities within the county to fund all ongoing maintenance and operating costs of the callbox system.

SEC. 14. (a) The Legislature finds and declares all of the following:

(1) The Portuguese Bend landslide on the Palos Verdes Peninsula has destroyed private property resulting in local revenue losses of two million dollars ($2,000,000) annually.

(2) The continued movement of the slide threatens continued use of Palos Verdes Drive South, the primary transportation route for residents in the southern region of the Palos Verdes Peninsula and the County of Los Angeles, which is intermittently closed to public buslines due to the state of disrepair.

(3) Continued movement of the slide threatens coastal access and recreational opportunities along the shore.

(4) Continued movement of the slide threatens the public health and safety by its continual disruption of water, power, telephone, natural gas, and sewage lines.

(5) The slide is the largest in the State of California and offers unique educational value to educational institutions concerned with the causes and prevention of similar natural disasters elsewhere.

(6) Action is required now to remedy this natural disaster because slide movement has reached a critical speed, which will result in substantial additional damages in the immediate future, and potential solutions to remedying this problem have only recently been demonstrated.

(b) Of amounts received from the settlement pursuant to Section 8(g) of the Outer Continental Shelf Lands Act as amended (43 U.S.C. Sec. 1337(g)), the sum of two million dollars ($2,000,000) is hereby appropriated to the Controller for transfer to the City of Rancho Palos Verdes, upon request of the city, for the following purposes:

(a) For engineering and administrative costs. Engineering expenditures shall be for costs for the design, construction, and operation of economical structures, equipment, and systems which aid in the stabilization of the Portuguese Bend landslide. Administrative expenditures shall be for costs associated with management, oversight, and implementation of the projects described in subdivisions (b), (c), and (d).

(b) For dewatering. Dewatering expenditures shall be for costs to install dewatering wells, pipes, and pumps to transport subsurface water contributing to slide instability to the Pacific Ocean.

(c) For surface water drainage systems. Surface water drainage expenditures shall be for costs to reestablish natural canyon drainage in various locations throughout the slide area and maintain an adequate system for surface water runoff from the slide to the Pacific Ocean.

(d) For land grading costs to close slide-created land fissures and to fill land depressions to prevent water ponding within the slide area. Grading expenditures shall also include the relocation of approximately 300,000 cubic yards of earth from points within the slide area at which it acts as a landslide driving force to points within the slide area at which it will provide a resistive force to slide action.

SEC. 15. (a) The Legislature hereby finds and declares all of the following:

(1) During 1986, a small migratory songbird called the Least Bell's Vireo (Vireo bellii pusillus) is expected to be listed as an endangered species by the Secretary of the Department of Interior. The bird has already been determined to be endangered by the state.

(2) The total population of the birds in the United States, about 300 pairs, is in southern California and predominantly in San Diego County, although significant populations also inhabit Riverside and San Bernardino Counties. The reasons for the bird's precipitous decline in numbers are primarily the destruction of their preferred habitat by urban development and agriculture, and parasitism by a nonendangered species, the Brown Headed Cowbird (Molothrus ater).

(3) It is unquestionable that the Vireo qualifies for listing as an endangered species. However, its habitat lies partially in areas of southern California which are scheduled for critical transportation, flood control, and water quality improvements.

(4) It is desirable that these projects proceed on or near their original schedules while satisfying the requirements of the Endangered Species Act, and that the Least Bell's Vireo be saved from extinction and encouraged to expand its numbers and range.

(b) The sum of one hundred fifty thousand dollars ($150,000) is hereby appropriated from settlement funds received by the state pursuant to Section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. Sec. 1337(g)) to the Department of Transportation for allocation on a 50-50 matching fund basis to the San Diego Association of Governments to develop, through a cooperative effort, a program

which consists of an overall plan and strategy for recovery of the Least Bell's Vireo, individual habitat conservation plans, and a management project in the species' habitat area. The program shall include all the following components:

(1) A task force which includes broad representation from involved local, state, and federal agencies and concerned groups in the private sector. The task force shall include, but not be limited to, representatives from the City of San Diego, the County of San Diego, the County of Riverside, the County of San Bernardino, the City of Oceanside, the City of Santee, the Audubon Society, San Diego State University, the Zoological Society of San Diego, the San Diego County Water Authority, the Department of Transportation, the Department of Fish and Game, and the United States Fish and Wildlife Service. The task force shall act as a selection panel and make a recommendation to the San Diego Association of Governments on the hiring of the environmental consultant and shall review and comment on the plan and program provided for in subdivision (b) for the purpose of assuring that appropriate species and habitat management occurs.

(2) A plan and program which includes all of the following:

(A) A plan for the conservation of the species on a rangewide basis, in the context of planning for riparian habitat generally.

(B) Development of individual habitat conservation plans, particularly with respect to riparian habitat areas where significant and multipurpose uses are contemplated.

(C) Development of institutional arrangements which would provide for the future preservation and maintenance of appropriate habitat for the species.

(D) Development of an ongoing, active management program in cooperation with other local, state, and federal agencies and public and private sector interests.

(3) At the request of the task force, involving as advisers the Zoological Society of San Diego and San Diego State University in habitat identification, development of management procedures, and research into the feasibility of captive propagation of the species.

(4) Conducting, at the consensus of the task force, field projects to enhance habitat areas, reduce Cowbird parasitism or, if appropriate, both.

(5) Providing all management and support activities necessary for the resolution of conflicts and in support of preservation of the species.

(6) Including in the program other areas of the species range including Riverside and San Bernardino Counties.

(7) Encouraging private and public agency financial participation in habitat enhancement, species management, and other programs by proponents of projects which conflict with the species habitat.

SEC. 16. (a) The sum of thirteen million five hundred thousand dollars ($13,500,000) of the settlement funds received by the state pursuant to Section 8(g) of the Outer Continental Shelf Lands Act

(43 U.S.C. Sec. 1337(g)) is hereby appropriated to the State Allocation Board, without regard to fiscal year, during the period commencing with the effective date of this act and terminating two years thereafter, for allocation to school districts selected by the State Allocation Board pursuant to this section, for the purpose of purchasing air-conditioning equipment and insulation materials, and for the expenses of installing the equipment and materials, for schools operating on a year-round or continuous basis pursuant to Chapter 3 (commencing with Section 37400), Chapter 4 (commencing with Section 37500), or Chapter 5 (commencing with Section 37600) of Part 22 of the Education Code.

(b) The State Allocation Board shall allocate the funds appropriated under subdivision (a) only to those school districts in which a high percentage of the pupils, or a significant number of the pupils, are enrolled in year-round or continuous schools as described in Section 1. The board shall grant preference in the allocation of those funds to those year-round or continuous schools that are both situated in climates that require air-conditioning and insulation during June, July, and August, and have a high percentage of overcrowding of pupils.

(c) Funds appropriated for the purposes of this section shall not be included within "the total amount of money allocated for public education in California," as that term is used in Section 8880.1 of the Government Code, as added by the California State Lottery Act of 1984.

SEC. 17. The sum of sixty-five thousand dollars ($65,000) is hereby appropriated to the State Department of Health Services from the settlement funds received by the state pursuant to Section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. Sec. 1337(g)) to reimburse the City of Santa Fe Springs Redevelopment Agency for the costs of site characterization at the Waste Disposal, Inc. Hazardous Substance Release Site.

SEC. 18. The sum of two million eight hundred sixty-four thousand five hundred dollars ($2,864,500) is hereby appropriated from the settlement funds received by the state pursuant to Section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. Sec. 1337(g)) to the Department of Parks and Recreation which shall make local assistance grants as follows:

(a) City of Downey, Olympic Pool Recreation Center five hundred thousand dollars ($500,000).

(b) City of Ripon, Mavis Stouffer Park one hundred twenty-eight thousand five hundred dollars ($128,500).

(c) Pixie Woods Board of Directors, Pixie Woods Childrens Park eighty thousand dollars ($80,000).

(d) County of San Joaquin, Oak Grove Regional Park, picnic shelter forty-four thousand dollars ($44,000).

(e) County of San Joaquin, Micke Grove Park fifty-eight thousand dollars ($58,000).

(f) City of San Ramon, Vista San Ramon Community Park two

hundred fifty-four thousand dollars ($254,000).

(g) City of Sunnyvale, Sunnyvale Bayland Park one million five hundred thousand dollars ($1,500,000).

(h) City of Carpenteria, Community Pool, three hundred thousand dollars ($300,000).

SEC. 19. The sum of five hundred thousand dollars ($500,000) of the settlement funds received by the state pursuant to Section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. Sec. 1337(g)) is hereby appropriated to the California Medical Assistance Commission created by Section 14165 of the Welfare and Institutions Code for expenditure to conduct workshops around the state on the Medi-Cal Reform Act of 1982 (Chs. 328 and 1594, Stats. 1982) in the 1985–86 fiscal year only.

SEC. 20. The sum of three hundred thousand dollars ($300,000) is hereby appropriated from the settlement funds received by the state pursuant to Section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. Sec. 1337(g)) is hereby appropriated to the Department of Rehabilitation to fund three independent living centers in the Counties of Contra Costa, Nevada, and Santa Cruz, pursuant to Sections 19800 et seq. of the Welfare and Institutions Code. Each of the three new centers shall receive a one-time allocation of one hundred thousand dollars ($100,000) for startup costs.

SEC. 21. Ten million dollars ($10,000,000) of the settlement fund received by the state pursuant to Section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. Sec. 1337(g)) is hereby appropriated to the Hazardous Waste Management Planning Subaccount in the Hazardous Water Control Account for purpose of funding the hazardous waste planning activities required by Article 3.5 (commencing with Section 25135) of Chapter 6.5 of Division 20 of the Health and Safety Code as enacted by Assembly Bill 16 of the 1985–86 Regular Session of the Legislature.

In the event Assembly Bill 16 is not enacted, the ten million dollars ($10,000,000) appropriated by this section shall be placed in the Hazardous Waste Control Account and shall be reserved for subsequent appropriation by the Legislature for hazardous waste management planning activities.

If the appropriation of this section becomes available at any time after any one, or all of, the transfers from the General Fund required by Section 12 of Assembly Bill 16 have been made, any amounts which were transferred from the General Fund pursuant to Section 12 of Assembly Bill 16 shall be repaid from the funds appropriated by this section within 30 days after the funds appropriated by this section have been allocated.

After repayment, if required, the remaining amounts required to be transferred by Section 12 of Assembly Bill 16 shall not be transferred and the remainder of any funds appropriated by this section are hereby transferred to the Hazardous Waste Management Planning Subaccount in the Hazardous Waste Control Account for

purposes of funding the hazardous waste management planning activities required by Article 3.5 (commencing with Section 25135) of Chapter 6.5 of Division 20 of the Health and Safety Code as enacted by Assembly Bill 16.

This section shall prevail over Section 13 of Assembly Bill 16 whether that bill is chaptered prior to or subsequent to the act enacting this section.

SEC. 22. The sum of two million dollars ($2,000,000) of the settlement funds received by the state pursuant to Section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. Sec. 1337(g)) is hereby appropriated to the Department of Food and Agriculture for repayment of the loan made pursuant to Section 4402 of the Food and Agricultural Code.

SEC. 23. The sum of one million three hundred thousand dollars ($1,300,000) of the settlement funds received by the state pursuant to Section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. Sec. 1337(g) is hereby appropriated to the State Department of Health Services for a one-time study, with the cooperation of the Department of Fish and Game, of marine pollution monitoring and health risk assessment.

SEC. 24. The sum of three million dollars ($3,000,000) of the settlement funds received by the state pursuant to Section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. Sec. 1337(g) is hereby appropriated to the City and County of San Francisco for expenditure for the reconstructions and renovation of the San Francisco Youth Guidance Center.

SEC. 25. Notwithstanding Sections 188 and 188.8 of the Streets and Highways Code, the sum of four million nine hundred fifty thousand dollars ($4,950,000) of the settlement funds received by the state pursuant to Section (g) of the Outer Continental Shelf Lands Act (43 U.S.C. Sec. 1337(g)) is hereby appropriated to the Department of Transportation for expenditure for the following soundwall projects in the amounts listed:

(a) San Diego Freeway project 868 from Roscoe to 0.4 mile north of Plummer four million dollars ($4,000,000).

(b) Soundwall project in the City of Manteca along State Highway Route 99 four hundred thousand dollars (400,000).

(c) Construction of soundwall on State Highway Route 91 between Pioneer Boulevard and 170th Street in the County of Los Angeles five hundred fifty thousand dollars ($550,000).

SEC. 26. The sum of two hundred thousand dollars ($200,000) of the settlement funds received by the state pursuant to Section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. Sec. 1337(g)) is hereby appropriated to the Controller for allocation to the Jacumba Improvement Association for the rehabilitation of its rural water system in the County of San Diego, except that the sum of fifteen thousand dollars ($15,000) shall be used to repay any grant provided pursuant to Assembly Bill 531 of the 1985–86 Regular Session of the Legislature.

SEC. 27. Notwithstanding Sections 188 and 188.8 of the Streets and Highways Code, the sum of four million six hundred thousand dollars ($4,600,000) of the settlement funds received by the state pursuant to Section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. Sec. 1337(g)) is hereby appropriated to the Department of Transportation for expenditure for the following projects in the amounts listed:

(a) State's share of construction of an interchange on Interstate 5 at Lyons Avenue in the County of Los Angeles six hundred thousand dollars ($600,000).

(b) Construction of an interchange at the intersection of Interstate 15 and Interstate 30 in the County of San Bernardino four million dollars ($4,000,000).

SEC. 28. The sum of one million dollars ($1,000,000) of the settlement funds received by the state pursuant to Section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. Sec. 1337(g)) is hereby appropriated to the Department of Fish and Game for a real property acquisition of the ancient creosote rings reserve in the Mojave Desert.

SEC. 29. The sum of seventeen million eight hundred fifty thousand dollars ($17,850,000) of the settlement funds received by the state pursuant to Section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. Sec. 1337(g)) is hereby appropriated to the Controller for allocation as follows:

(a) One million dollars ($1,000,000) to the State Department of Education for the purposes of Article 23 (commencing with Section 84-80) of Chapter 2 of Part 6 of the Education Code.

(b) Seven million two hundred fifty thousand dollars ($7,250,000) for deposit in the State Child Care Capital Outlay Fund for the purposes of Article 24 (commencing with Section 8493) of Chapter 2 of Part 6 of the Education Code.

(c) Three million one hundred thousand dollars ($3,100,000) to the State Department of Education for the purposes of Article 4.7 (commencing with Section 42300) of Chapter 7 of Part 24 of the Education Code.

(d) Six million five hundred thousand dollars ($6,500,000) for the purposes of Section 2549 of the Streets and Highways Code.

SEC. 32. The sum of two hundred sixty thousand dollars ($260,000) is hereby appropriated from any settlement funds received by the state pursuant to Section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. Sec. 1337(g)) to the Controller for allocation to the County of Tehama for reimbursement of the costs of the trial in the case of Peysler Hooker.

SEC. 33. The sum of twenty-eight million five hundred thousand dollars ($28,500,000) is appropriated from any settlement funds received by the state pursuant to Section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. Sec. 1337(g)) to the State School Lease-Purchase Fund for purposes of the Leroy F. Greene State School Building Lease-Purchase Act of 1976.

SEC. 34. One million nine hundred thousand dollars ($1,900,000) from any settlement funds received by the state pursuant to Section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. Sec. 1337(g)), is appropriated to the California Academy of Science to be utilized to defray the cost of an environmental impact report, plans and working drawings for museum construction, and design and detailed drawings of major permanent science education exhibits.

SEC. 35. (a) From the federal settlement 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)) the sum of four million three hundred thousand dollars ($4,300,000) plus any interest earned on these funds until July 1, 1992, is hereby appropriated to the State Department of Mental Health for allocation to the County of Sacramento for the purposes of providing an appropriate physical plant and equipment for the county's mental health treatment program.

(b) The first priority for money allocated under this section shall be the construction of a mental health complex which shall include a psychiatric health facility, as defined in Section 5652.5 of the Welfare and Institutions Code and Section 1250 of the Health and Safety Code, and a residence providing a short-term crisis residential alternative to hospital care described in subdivision (a) of Section 5458 of the Welfare and Institutions Code. The psychiatric health facility shall have a capacity of no less than 55 inpatient beds, and shall include, but not be limited to, space for 24-hour per day psychiatric crisis and evaluation services described in Section 5150 of the Welfare and Institutions Code. The psychiatric health facility shall be constructed in compliance with all applicable licensure requirements and building safety laws and regulations, including, but not limited to, all applicable psychiatric health facility structural requirements.

(c) After the total costs of constructing a new psychiatric health facility have been determined by the County of Sacramento, the State Department of Mental Health shall allocate money to remodel, reconstruct, and refurbish the existing psychiatric health facility, known as the Sacramento Mental Health Center, in order to use it for mental health activities including, but not limited to, mental health administration and outpatient services. Not more than one million dollars ($1,000,000) of the appropriation made by this section shall be used for the purposes of this subdivision.

(d) Money allocated under this section may be used for planning, developing, and implementing the purposes of this section, including, but not limited to, preparation of plans and contracts, engineering and design, site development, utility relocations and connections, building construction, furnishings, landscaping and county administrative costs directly related to these purposes.

(e) The maximum amount of the total allocation under this section shall be verified by state audit following payment of all contracts. No expenses shall be incurred against this allocation after

July 1, 1992, unless the County of Sacramento can adequately demonstrate that extraordinary and unforeseen circumstances created delays that prevented completion of the new mental health complex.

(f) Nothing shall preclude the County of Sacramento from obtaining additional funding from other sources for the aforementioned mental health complex and the Sacramento Mental Health Center remodeling.

(g) The State Department of Mental Health shall enter into an agreement with the County of Sacramento to assure that facilities constructed and remodeled under this allocation are used for the purpose of mental health treatment and services. This agreement shall require repayment of the full depreciated value of the new psychiatric health facility and of 20 percent of the depreciated value of the facility currently known as the Sacramento Mental Health Center if the county uses these facilities for any purposes other than mental health treatment and services at any time during the first 20 years following enactment of this legislation.

(h) Any unused funds shall be deposited in the General Fund after July 1, 1992, except as provided in subdivision (e).

SEC. 36. It is the intent of the Legislature that the funds received by the state pursuant to Section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. Sec. 1337(g)) shall be expended on a one-time basis and shall be the primary source of funding for the purposes and projects provided for in this act.

Therefore, notwithstanding any other provision of law, if any bill, including, but not limited to, AB 332, AB 531, AB 1016, AB 1140, AB 1293, AB 1461, AB 1504, AB 1848, AB 1890, AB 1909, AB 1914, AB 2041, AB 2269, AB 2578, or SB 51 is enacted during the 1985 portion of the 1985–86 Regular Session of the Legislature and appropriates funds for the same purpose as funds are appropriated for in this act, regardless of which bill is enacted first, the amount appropriated for that purpose in this act shall be expended first for that purpose and to reimburse the fund from which any moneys have been encumbered for that purpose pursuant to the other bill, and the amount appropriated in the other bill shall be reduced by that amount.

SEC. 37. Sections 1 to 36, inclusive, of this act shall not become operative until Senate Bill 300 of the 1985–86 Regular Session of the Legislature is enacted.

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:

In order that funds appropriated and allocated by this act will be available for expenditure as early as possible in this fiscal year, it is necessary that this act take effect immediately.

CHAPTER 1441

An act relating to adult education, and making an appropriation therefor.

[Approved by Governor October 1, 1985 File with Secretary of State October 1, 1985]

I am reducing the $1,500,000 appropriation in Section 2 of Assembly Bill No 363 to $500,000 and the $300,000 appropriation contained in Section 3 to $100,000

Both appropriations are available for both 1985–86 and 1986–87 I will review the English as a Second Language needs as I prepare my 1986–87 budget and propose funding necessary to carry out the provisions of this Act

With this reduction, I approve Assembly Bill No 363.

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. The Legislature hereby finds and declares that the State of California has become a haven for millions of persons from diverse cultures and languages. The Legislature also finds and declares that the state has become a multilingual state, with the number of native languages spoken approaching 90.

The Legislature further finds that many of these adults are in need of formal instruction in the English language in order to enable them to become fully participating and productive members of our society.

It is the intent of the Legislature to provide for the specific allocation of funding for specific enrollments in adult education programs in English as a second language based upon documentation of a school district's or community college district's need for that funding, as determined by the Superintendent of Public Instruction or the Chancellor of the California Community Colleges, respectively.

SEC. 2. (a) Notwithstanding any other provision of law, including Section 52616 of the Education Code, an amount not to exceed one million five hundred thousand dollars ($1,500,000) is hereby appropriated from the General Fund to Section A of the State School Fund for allocation to school districts in the 1985–86 fiscal year for the purpose of funding extraordinary needs in adult education programs in English as a second language provided under subdivision (c) of Section 41976 of the Education Code.

(b) The appropriation made by subdivision (a) shall be made only for the 1985–86 fiscal year as an emergency augmentation of the funds appropriated for those purposes in the Budget Act for the 1985–86 fiscal year and shall be available for expenditure in the 1985–86 and 1986–87 fiscal years.

(c) Adult average daily attendance funded under this act shall be excluded from the average daily attendance used for computing school districts' adult block entitlements computed pursuant to Section 52616 of the Education Code.

(d) The Superintendent of Public Instruction shall identify

districts having extraordinary needs as those having the highest concentration of limited-English-proficient students in grades K—12 recorded by the annual census of pupils of limited-English proficiency pursuant to Section 52164. The Superintendent of Public Instruction will give priority for the allocation of funds under subdivision (a) to districts whose current enrollment in adult classes in English as a second language are lowest in proportion to the limited-English proficient count in the districts served by the adult education program. However, the Superintendent of Public Instruction may waive the requirements of this subdivision and funds may be distributed to an applicant school district that proves to the satisfaction of the superintendent, undue hardship in complying with these requirements.

(e) Any funds allocated to school districts under this act shall only be used for local assistance in augmentation of Item 6100-156-001 of the Budget Act for the 1985–86 fiscal year.

SEC. 3. (a) An amount not to exceed three hundred thousand dollars ($300,000) is hereby appropriated from the General Fund to Section B of the State School Fund for allocation to community college districts in the 1985–86 fiscal year for the purpose of funding extraordinary needs in adult education programs in English as a second language provided under paragraph (3) of subdivision (a) of Section 84711 of the Education Code.

(b) The appropriation made by subdivision (a) shall be in augmentation of funds allocated to community college districts by Item 6870-101-001 of the Budget Act for the 1985–86 fiscal year and shall be available for expenditure in the 1985–86 and 1986–87 fiscal years.

(c) Funds allocated to community college districts under this act shall only be allocated for growth in average daily attendance for programs provided under paragraph (3) of subdivision (a) of Section 84711 of the Education Code which is in excess of the amount allocated to community college districts for growth in average daily attendance for these programs in the Budget Act for the 1985–86 fiscal year.

(d) The governing board of any community college district which only provides adult education programs and classes under an agreement with school districts and which is capable of demonstrating extraordinary needs in English as a second language programs shall be eligible for funding under this act. Community college districts providing adult education programs under an agreement and which have experienced a decline in their average daily attendance in the 1984–85 fiscal year below that of the 1982–83 base fiscal year, shall be ineligible to receive funding under this act.

(e) Eligible community college districts shall submit an application for funding to the Chancellor of the California Community Colleges. The chancellor shall allocate funds based on information provided by the Superintendent of Public Instruction pursuant to subdivision (d).

SEC. 4. Funds appropriated for the purposes of this act shall not be included within "the total amount of money allocated for public education in California," as that term is used in Section 8880.1 of the Government Code, as added by the California State Lottery Act of 1984.

CHAPTER 1442

An act to amend Sections 5653, 8590, 8595, 8630, 8696, 9020, 9053, 12004, 13201, and 13204 of, to amend, repeal and add Section 9006 of, to add Section 8475, 8695.5, 9023, and 9024 to, to repeal Sections 8402, 8689, 8691, and 9021 of, and to repeal and add Sections 8400 and 8688 of, the Fish and Game Code, relating to fish and game, and making an appropriation therefor.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 5653 of the Fish and Game Code is amended to read:

5653. (a) Before any person uses any vacuum or suction dredge equipment in any river, stream, or lake, the person shall submit an application for a permit for the use of the dredge to the department specifying the type and size of equipment to be used and such other information as the department may require.

(b) The department may designate waters or areas in which vacuum or suction dredges may be used pursuant to a permit, waters or areas closed to those dredges, the maximum size of the dredges which may be used, and the time of year when the dredges may be used. If the department determines that the operation of vacuum or suction dredges will not be deleterious to fish, it shall issue a permit to the applicant. If any person operates any equipment other than that authorized by the permit or conducts that operation in any waters or area, or at any time, which is not authorized by the permit, or if any person conducts that operation without securing a permit, the person is guilty of a misdemeanor.

(c) The department shall require, as a fee for the permits, five dollars ($5) when an onsite investigation of the project size is not deemed necessary by the department, and seventy-five dollars ($75) when the department deems an onsite investigation is necessary.

(d) It is unlawful to possess a vacuum or suction dredge in areas, or in or within 100 yards of waters, which are closed to the use of vacuum or suction dredges.

SEC. 2. Section 8400 of the Fish and Game Code is repealed.

SEC. 3. Section 8400 is added to the Fish and Game Code, to read:

8400. (a) California killifish (Fundulus parvipinnis), mudsuckers

(Gillichthys mirabilis), and yellowfin gobies (Acanthogobius flavimanus) may only be taken for commercial purposes with baitfish traps in the tidewaters of Districts 3½, 4, 4⅛, 4¾, 15, 16, 17, and 21, in the tidewaters of District 10 south of the City and County of San Francisco, in the Salton Sea, and in Imperial and Riverside Counties.

(b) Shiner perch (Cymatogaster aggregata), staghorn sculpin (Leptocottus armatus), mudsuckers (Gillichthys mirabilis), and yellowfin gobies (Acanthogobius flavimanus) may only be taken for commercial purposes with baitfish traps in Districts 11, 12, and 13 and in the tidewaters of Districts 2 and 2½.

(c) Any unauthorized species taken incidentally in baitfish traps in the districts specified in subdivisions (a) and (b) shall be immediately released.

(d) Baitfish traps, as described in Section 9020, may be used subject to Article 1 (commencing with Section 9000) of Chapter 4.

SEC. 4. Section 8402 of the Fish and Game Code is repealed.

SEC. 5. Section 8475 is added to the Fish and Game Code, to read:

8475. Notwithstanding Section 200, the commission shall regulate the taking of freshwater clams for commercial purposes.

SEC. 6. Section 8590 of the Fish and Game Code is amended to read:

8590. For the purposes of this article, "prawns" or "shrimp", or both, include all of the following species:

(a) Spot prawn (Pandalus platyceros).

(b) Ridgeback prawn (Sicyonia ingentis).

(c) Coonstrip prawn (Pandalus danae).

(d) Pacific ocean shrimp (Pandalus jordani).

(e) Bay shrimp (Crangon franciscorum and Crago sp.).

(f) Red rock shrimp (Lysmata californica).

SEC. 7. Section 8595 of the Fish and Game Code is amended to read:

8595. (a) Prawns or shrimp may be taken for commercial purposes with a trawl net, subject to Article 10 (commencing with Section 8830) of Chapter 3, or in either a prawn trap or a shrimp trap, subject to Article 1 (commencing with Section 9000) of Chapter 4.

(b) No other species shall be taken in a prawn trap or a shrimp trap. Any other species taken incidentally with a prawn trap or a shrimp trap shall be immediately released.

SEC. 8. Section 8630 of the Fish and Game Code is amended to read:

8630. Any net or trap used for taking fish in violation of the provisions of this code is a public nuisance. It is the duty of every person authorized to make an arrest for such a violation to seize and keep the net and report the seizure to the department.

The department may commence proceedings in the superior court of the county or city and county in which the seizure is made by petitioning the court for a judgment forfeiting the net. Upon the filing of the petition, the clerk of the court shall fix a time for a hearing and cause notices to be posted for 14 days in at least three

public places in the place where the court is held, setting forth the substance of the petition and the time and place fixed for its hearing. At that time, the court shall hear and determine the proceeding and, upon proof that the net was used in violation of this code shall order it forfeited. Any net so forfeited shall be sold or destroyed by the department. The proceeds from all those sales shall be paid into the Fish and Game Preservation Fund.

SEC. 9. Section 8688 of the Fish and Game Code is repealed.

SEC. 10. Section 8688 is added to the Fish and Game Code, to read:

8688. In Districts 11, 12, and 13, gill nets may be used to take only herring, subject to Article 15 (commencing with Section 8550) of Chapter 2. No gill net may be possessed on any boat in Districts 11, 12, and 13, except by persons possessing a valid permit to take herring during the open season established by the commission.

SEC. 11. Section 8689 of the Fish and Game Code is repealed.

SEC. 12. Section 8691 of the Fish and Game Code is repealed.

SEC. 13. Section 8695.5 is added to the Fish and Game Code, to read:

8695.5. In District 21, set gill nets may be used south of the Coronado-San Diego Bridge to take mullet (Mugil cephalus) only under a revocable nontransferable permit issued by the department and under such regulations as the department shall prescribe.

The total number of permits which may be issued under this section shall not exceed five for each annual season.

SEC. 14. Section 8696 of the Fish and Game Code is amended to read:

8696. Except as otherwise provided, 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. 15. Section 9006 of the Fish and Game Code is amended to read:

9006. Any buoy used to mark a trap shall be clearly and distinctively marked with a buoy identification number, as follows:

(a) The buoy identification number for a lobster trap used to take lobster under Section 9010 is the lobster permit number issued pursuant to Section 8254.

(b) The buoy identification number for a trap, which is used under a general trap permit issued pursuant to Section 9001 or a crab trap used to take dungeness crab under Section 9011, is the vessel identification number issued pursuant to Section 7880 if the trap is set or serviced from a vessel registered to the operator of the trap. Otherwise, the buoy identification number is the general trap permit number. If the operator of the trap has neither a vessel identification number nor a general trap permit number, the buoy identification number is the commercial license number issued pursuant to Section 7850.

This section shall remain in effect only until April 1, 1987, and as

of that date is repealed, unless a later enacted statute, which is enacted before April 1, 1987, deletes or extends that date.

SEC. 16. Section 9006 is added to the Fish and Game Code, to read:

9006. Any buoy used to mark a trap shall be clearly and distinctively marked with a buoy identification number, as follows:

(a) The buoy identification number for a lobster trap used to take lobster under Section 9010 is the lobster permit number issued pursuant to Section 8254.

(b) The buoy identification number for a trap, which is used under a general trap permit issued pursuant to Section 9001 or a crab trap used to take dungeness crab under Section 9011, is the commercial license number issued to the operator of the trap pursuant to Section 7850.

This section shall become operative on April 1, 1987.

SEC. 17. Section 9020 of the Fish and Game Code is amended to read:

9020. (a) Subject to Section 8400, California killifish (Fundulus parvipinnis), mudsuckers (Gillichthys mirabilis), yellowfin gobies (Acanthogobius flavimanus), shiner perch (Cymatogaster aggregata), and staghorn sculpin (Leptocottus armatus) may be taken with baitfish traps under a general trap permit issued pursuant to Section 9001.

(b) A baitfish trap shall not exceed 12 inches in width, 12 inches in height, and 36 inches in greatest length with entrance at small ends of funnels or fykes not to exceed 2 inches in circumference.

SEC. 18. Section 9021 of the Fish and Game Code is repealed.

SEC. 19. Section 9023 is added to the Fish and Game Code, to read:

9023. Traps may be used thoroughout the year to take carp in any district under the following restrictions:

Traps shall not exceed six feet in greatest dimension. They shall be made of cotton or nylon twine. Meshes shall not be less than three and one-half inches in length, except that fyke and bait bags may be any size mesh. Traps shall have only a single vertical fyke opening at the top of the trap. They shall be baited only with grain or grain products. Fish other than carp taken in traps subject to this section shall be immediately returned to the water.

SEC. 20. Section 9024 is added to the Fish and Game Code, to read:

9024. Crayfish traps may be used at any time in any district to take crayfish only. Traps shall not exceed three feet in greatest dimension. Any other species taken with crayfish traps shall be returned to the water immediately. The commission may prohibit the use of crayfish traps which will injure fish or which will entrap unnecessarily large numbers of fish other than crayfish.

SEC. 21. Section 9053 of the Fish and Game Code is amended to read:

9053. (a) Powered equipment of such design as may be

prescribed by the commission may be used to take crustaceans and mollusks under a revocable permit issued by the department and under such regulations as the commission shall prescribe.

(b) Taking of lobster or crabs under this section is subject to Article 5 (commencing with Section 8250) and Article 6 (commencing with Section 8275) of Chapter 2 of Part 3 of Division 6.

SEC. 22. Section 12004 of the Fish and Game Code is amended to read:

12004. (a) The punishment for a first conviction of a violation of Section 8685.5, 8685.6, 8685.7, or 8688 is a fine of not more than five thousand dollars ($5,000), or imprisonment in the county jail for a period not to exceed six months, or the revocation of any license issued pursuant to Section 8040, or any combination of these penalties.

(b) The punishment for a second or subsequent conviction of a violation of Section 8685.5, 8685.6, 8685.7, or 8688, which offense occurred within five years of another offense which resulted in a conviction of Section 8685.5, 8685.6, 8685.7, or 8688 is a fine of not more than ten thousand dollars ($10,000), or imprisonment in the state prison, or imprisonment in the county jail for a period not to exceed one year, or the revocation of any license issued pursuant to Section 8040, or any combination of these penalties.

SEC. 23. Section 13201 of the Fish and Game Code is amended to read:

13201. In establishing the appropriate programs or activities for this system, the department shall consider the following programs or activities:

(a) Freshwater fisheries activities.
(b) Marine fisheries activities.
(c) Wildlife management activities.
(d) Planning and environmental review.
(e) Law enforcement.
(f) Nongame and endangered species.
(g) General administration.

SEC. 24. Section 13204 of the Fish and Game Code is amended to read:

13204. The department shall prepare a report at the end of each calendar quarter showing the cost of each activity and program for the fiscal year to date and shall submit the report to the Legislature.

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.

CHAPTER 1443

An act to add Chapter 11 (commencing with Section 13897) to Title 6 of Part 4 of the Penal Code, relating to crime, and making an appropriation therefor.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Chapter 11 (commencing with Section 13897) is added to Title 6 of Part 4 of the Penal Code, to read:

CHAPTER 11. VICTIMS' LEGAL RESOURCE CENTER

13897. The Legislature finds and declares each of the following:

(a) The citizens of California have expressed great concern for the plight of crime victims.

(b) It is in the best interest, not only of the victims and their families, but also of all the citizens of California to ensure that crime victims receive comprehensive assistance in overcoming the effects of victimization.

(c) While many options and rights exist for the crime victim, including providing financial assistance pursuant to Chapter 5 (commencing with Section 13959) of Part 4 of Division 3 of Title 2 of the Government Code, participation in sentencing and parole eligibility hearings of criminal perpetrators, civil litigation against the perpetrator and third parties, assistance from victim-witness programs, and private support and counseling services, research indicates that many crime victims suffer needlessly because they are not aware of these options and rights, or are apprehensive or uncertain about where to go for assistance or how to exercise their rights.

(d) It is thus necessary to provide a resource center, statewide in scope, where victims of crime and their families can receive referral information, assistance, and legal guidance in order to deal effectively with their needs as victims and minimize the continuing victimization process, which often results from a complex justice system. This resource center shall be independent, offer victims assistance in understanding and effectively exercising their legal rights, provide information about their rights and the workings of the criminal justice system, and direct them to appropriate local resources and agencies which can offer further assistance. The resource center shall provide, on a statewide basis, information assistance for all crime victims without charge and shall complement the efforts of various local programs, including victim-witness programs, rape crisis units, domestic violence projects, and child abuse centers.

13897.1. There shall be established a resource center which shall operate a statewide, toll-free information service, consisting of legal and other information, for crime victims. The center shall provide information and educational materials discussing victims' legal rights. The center shall distribute these materials to administrative agencies, law enforcement agencies, victim-service programs, local, regional, and statewide education systems, appropriate human service agencies, and political, social, civic, and religious leaders and organizations.

13897.2. (a) Within 120 days of the effective date of this chapter, the Office of Criminal Justice Planning shall grant an award to an appropriate private, nonprofit organization, to provide a statewide resource center, as described in Section 13897.1.

(b) The center shall:

(1) Provide callers with information about victims' legal rights to compensation pursuant to Chapter 5 (commencing with Section 13959) of Part 4 of Division 3 of Title 2 of the Government Code and, where appropriate, provide victims with guidance in exercising these rights.

(2) Advise callers about any potential civil causes of action, and where appropriate, provide callers with references to local legal aid and lawyer referral services.

(3) Advise and assist callers in understanding and implementing their rights to participate in sentencing and parole eligibility hearings as provided by statute.

(4) Advise callers about victims' rights in the criminal justice system, assist them in overcoming problems, including the return of property, and inform them of any procedures protecting witnesses.

(5) Refer callers, as appropriate, to local programs, which include victim-witness programs, rape crisis units, domestic violence projects, and child sexual abuse centers.

(6) Refer callers to local resources for information about appropriate public and private benefits and the means of obtaining aid.

(7) Publicize the existence of the toll-free service through the print and electronic media, including public service announcements, brochures, press announcements, various other educational materials, and agreements for the provision of publicity, by private entities.

(8) Compile comprehensive referral lists of local resources that include the followoing: victims' assistance resources, including legal and medical services, financial assistance, personal counseling and support services, and victims' support groups.

(9) Produce promotional materials for distribution to law enforcement agencies, state and local agencies, print, radio, and television media outlets, and the general public. These materials shall include placards, video and audio training materials, written handbooks, and brochures for public distribution. Distribution of these materials shall be coordinated with the local victims' service

programs.

(10) Research, compile, and maintain a library of legal information concerning crime victims and their rights.

(11) Provide a 10-percent minimum cash match for all funds appropriated pursuant to this chapter which match may include federal and private funds in order to supplement any funds appropriated by the Legislature.

(c) The resource center shall be located so as to assure convenient and regular access between the center and those state agencies most concerned with crime victims. The entity receiving the grant shall be a private, nonprofit organization, independent of law enforcement agencies, and have qualified staff knowledgeable in the legal rights of crime victims and the programs and services available to victims throughout the state. The subgrantee shall have an existing statewide, toll-free information service and have demonstrated substantial capacity and experience serving crime victims in areas required by this act.

(d) The services of the resource center shall not duplicate the victim service activities of the Office of Criminal Justice Planning or those activities of local victim programs funded through the office.

13897.3. The Office of Criminal Justice Planning shall develop written guidelines for funding and performance standards for monitoring the effectiveness of the resource center program. The program shall be evaluated by a public or private nonprofit entity under a contract with the Office of Criminal Justice Planning.

SEC. 2. (a) The sum of two hundred thousand dollars ($200,000) is hereby appropriated from the General Fund to the Office of Criminal Justice Planning for purposes of this act.

(b) No more than 10 percent of the funds appropriated pursuant to subdivision (a) shall be utilized by the office for administrative expenses.

CHAPTER 1444

An act to add Sections 1596.806 and 1596.807 to, the Health and Safety Code, relating to child day care facilities.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 1596.806 is added to the Health and Safety Code, to read:

1596.806. Extended day care programs for children who are four years and nine months or older and are currently enrolled in the school or are dependent children living within the same household as a child attending the school, operated on a functioning school site

in the same facilities that have housed school children during the day, before or after school hours or before and after school hours, by an entity which contracts with the school to provide staff and program, shall not be required to meet the square footage or toilet requirements for child day care centers.

SEC. 2. Section 1596.807 is added to the Health and Safety Code, to read:

1596.807. The State Department of Social Services, when exempting an extended day care program at a public or private school from licensure pursuant to Section 1596.792, shall allow additional children to be served at that school site, so long as they are four years and nine months of age or older and the number of additional children, including dependent children living within the same household as a child attending that school, does not exceed 15 percent of the total enrollment in the extended day care program. In no case shall the enrollment of the extended day care program exceed the enrollment during the regular schoolday.

CHAPTER 1445

An act to add and repeal Chapter 6 (commencing with Section 13700) to Part 3 of Division 9 of the Welfare and Institutions Code, relating to homeless youth, and making an appropriation therefor.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. This act may be cited, and shall be known, as the Homeless Youth Act of 1985.

SEC. 2. Chapter 6 (commencing with Section 13700) is added to Part 3 of Division 9 of the Welfare and Institutions Code, to read:

CHAPTER 6. HOMELESS YOUTH EMERGENCY SERVICE PILOT PROJECTS

13700. The Legislature finds and declares all of the following:

(a) There are homeless minors living on the streets of major urban centers in this state without adequate food, shelter, health care or financial support.

(b) Many of these homeless youth in these urban centers come from out-of-city or out-of-county locations.

(c) The homeless child, in many instances, has a history of physical or sexual abuse at home, and of having been rejected or forced out of the parental home.

(d) While living on the streets, these youth fall prey to drug abuse, prostitution and other illegal activities.

(e) Local public agencies are unable to provide these youth with an adequate level or range of remedial services.

(f) These homeless minors are urgently in need of specialized services to locate them, to assist them with their immediate survival needs, and to address their long-term need to reunite with their parents or find a suitable home.

The purpose of this chapter is therefore to establish one Homeless Youth Emergency Service Pilot Project in the County of Los Angeles, and one in the City and County of San Francisco, where the problem is most acute, and to examine the condition of homeless youth in major urban areas of this state with populations of 500,000 or more and develop a profile of homeless youth in terms of background and available services, in order to locate these youth, to provide for their emergency survival needs, and to assist them in reunification with their parents or in finding a suitable home.

13700.5. For purposes of this chapter, "office" means the Office of Criminal Justice Planning.

13701. Each homeless youth pilot project established under this chapter shall provide services which shall include, but are not limited to all of the following:

(a) Food and access to an overnight shelter.

(b) Counseling to address immediate emotional crises or problems.

(c) Outreach services to locate homeless youth and link them with services, and drop-in facilities to make the services accessible to the street population.

(d) Screening for basic health needs and referral to public and private agencies for health care.

(e) Linkage to other services offered by public and private agencies.

(f) Long-term stabilization planning so that the youth may be returned to the parental home under circumstances favoring long-term reunification with the family, or so that the youth can be suitably placed in a situation outside the family when family reunification is not possible.

(g) Followup services to ensure that the return to the family or the placement outside the family is stable.

13702. In addition to the services provided for in Section 13701, each homeless youth emergency services pilot project shall collect data based upon client service histories, including data from similar youth service providers in urban areas of this state with populations of 500,000 or more. These data shall include client demographic and cost information on each case that will be sufficient to allow for the effective evaluation of the projects. These client data shall remain confidential unless disclosure is provided for under some other provision of law, and if disclosure is required it shall be made only in the manner provided for under such other provision of law.

13703. (a) One homeless youth emergency service pilot project shall be established in the County of Los Angeles and one shall be

established in the City and County of San Francisco. Each pilot project may have one central location or may have more than one location in the service area in order to serve effectively the area population of homeless youth. Each pilot project shall be operated by an agency in accordance with the grant award agreement with the office.

(b) The office shall prepare and disseminate a request for proposals for grantees under this chapter by February 15, 1986. The office shall enter into grant award agreements, and the operation of pilot projects shall begin, not later than June 1, 1986. Each pilot project shall remain in operation for a period of two years from the commencement of operation. The second year of operation shall be contingent upon appropriation of funds in the 1986–87 Budget Act.

(c) An agency eligible to apply for funds under this chapter and to operate a homeless youth emergency service pilot project shall be a private, nonprofit agency with a demonstrated record of success in the delivery of services to homeless youth. The agency selected for each pilot project shall demonstrate the ability to provide each of the services described in Section 13701, either directly or under subcontract with a competent provider. Preference shall be given to agencies that demonstrate a history of coordination with other public and private agencies in the service region that provide services to homeless youth. Preference shall also be given to agencies that will involve a network of youth-serving agencies in the delivery of services to homeless youth under this chapter.

13704. The office shall monitor the pilot projects established under this chapter. In monitoring and evaluating the pilot projects, the office shall coordinate its efforts with the activities relating to homeless youth of the state advisory group on juvenile justice, as described in Sections 1785 and 1786. The office shall submit an evaluation of the pilot projects established under this chapter to the Legislature on or before December 1, 1988.

13705. This chapter shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1989, deletes or extends that date.

SEC. 3. The sum of nine hundred sixty-eight thousand dollars ($968,000) is hereby appropriated from the General Fund to the Office of Criminal Justice Planning in order to implement the first contract year of the pilot projects established pursuant to Chapter 6 (commencing with Section 13700) of Part 3 of Division 9 of the Welfare and Institutions Code, for allocation as follows:

(a) The sum of nine hundred twenty thousand dollars ($920,000) shall be allocated to the pilot program grantees selected pursuant to Chapter 6 (commencing with Section 13700) of Part 3 of Division 9 of the Welfare and Institutions Code as follows:

(1) The sum of three hundred sixty-eight thousand dollars ($368,000) to the pilot project grantee serving the City and County of San Francisco.

(2) The sum of five hundred fifty-two thousand dollars ($552,000) to the pilot project grantee serving the County of Los Angeles.

(b) The sum of forty-eight thousand dollars ($48,000) shall be allocated to the Office of Criminal Justice Planning in order to cover the administrative costs of the department associated with the implementation, monitoring, and evaluation of each of the two-year pilot projects established by this act.

The Legislature intends that funds for the second grant year of the projects authorized by this act be provided to the Office of Criminal Justice Planning in the 1986–87 Budget Act.

CHAPTER 1446

An act to add Section 6015.5 to the Revenue and Taxation Code, relating to taxation.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 6015.5 is added to the Revenue and Taxation Code, to read:

6015.5. Notwithstanding any other provision of law, any broadcaster, printer, outdoor advertising firm, advertising distributor, or publisher which broadcasts, publishes or displays or distributes paid commercial advertising in this state which is intended to be disseminated primarily to consumers located in this state and is only secondarily disseminated to bordering jurisdictions, including advertising appearing exclusively in a California edition or section of a national publication, shall be regarded for purposes of this part and Part 1.5 (commencing with Section 7200) only, as the agent of the person or entity placing the advertisement and that person or entity placing the advertisement shall be regarded as a "retailer engaged in business in this state."

The agency created by this part is for the sole purpose of providing a presence in California for the imposition of a tax on out-of-state advertisers or sellers. The agent shall have no responsibility to report, or liability to pay, any tax imposed under this part and shall not be restricted by its provisions from accepting ads from out-of-state advertisers or sellers.

CHAPTER 1447

An act to amend Sections 94310 and 94331 of the Education Code, relating to postsecondary education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 94310 of the Education Code is amended to read:

94310. No institution may issue, confer, or award an academic or honorary degree unless the institution meets the requirements of at least one of the subdivisions of this section.

(a) The institution meets the requirements of one or both of the following paragraphs:

(1) The institution, at the time of the issuance of a degree, has accreditation of the institution, program, or specific course of study upon which the degree is based by a national accrediting agency recognized by the United States Department of Education, by the Western Association of Schools and Colleges, or by the Committee of Bar Examiners for the State of California. The institution shall file with the superintendent an annual affidavit by the administrative head of the institution stating that the institution is so accredited. Institutions authorized to operate under this paragraph may issue diplomas and certificates as well as degrees.

(2) An institution incorporated in another state that has accreditation from a regional accrediting association recognized by the United States Department of Education at the time of the issuance of a degree, and that is licensed by the superintendent, may issue degrees, diplomas, or certificates.

(A) The superintendent shall not license an institution to issue degrees, diplomas, or certificates pursuant to this paragraph until he or she has conducted a qualitative review and assessment of, and has approved, the operations of the institution in California, and the superintendent has determined all of the following:

(i) The institution has financial resources to ensure the capability of fulfilling the program or programs for enrolled students.

(ii) The faculty includes personnel who possess appropriate degrees from institutions accredited by a regional accrediting association recognized by the United States Department of Education in the degree major field or fields offered, in sufficient number to provide the educational services.

(iii) The education services and curriculum clearly relate to the objectives of the proposed program or programs, which are comparable in scope and sequence to minimum standards of

comparable programs offered by accredited institutions already operating in this state.

(iv) The facilities are appropriate for the defined educational objectives and are sufficient to ensure quality educational services to the students enrolled in the program or programs.

(v) The institution has verifiable evidence of academic achievement comparable to that required of graduates of other accredited institutions operating in this state for the program or programs upon which the degree, diploma, or certificate is based.

(B) All institutions incorporated in another state that were offering educational programs in California and were authorized to operate pursuant to paragraph (1) of subdivision (a) on December 31, 1985, shall have the option until and including December 31, 1989, of continued operation in California pursuant to authorization under paragraph (1) of subdivision (a) or through licensure pursuant to this paragraph.

(C) Except as otherwise provided by subparagraph (D), the superintendent shall grant licensed status under this paragraph for a period of four years.

(D) The superintendent shall grant licensed status under this paragraph until December 31, 1987, for all other institutions incorporated in another state that offered educational programs in California prior to July 1, 1985, that file with the superintendent within 30 days from the effective date of the amendments to this section enacted by the Statutes of 1985 all of the following information:

(i) A copy of the institution's most recent self-study report prepared for the institution's home regional accrediting association, as well as a copy of the institution's team report prepared by the accrediting association.

(ii) A list of the locations of all of the operations of the institution in California.

(iii) A list of all degree, diploma, and certificate programs offered by the institution in California, as well as the curriculum, instruction, and faculty utilized in each program.

(iv) A list of degrees, diplomas, and certificates offered by the institution.

Institutions licensed under this subparagraph shall offer in California only programs that the institution can document to have been acknowledged and favorably reviewed by the home regional accrediting association.

(E) (i) The Director of the California Postsecondary Education Commission shall establish a special committee of persons with demonstrated knowledge of both regional accrediting standards and procedures and the special demands of off-campus programs. The committee shall include representatives from the State Department of Education, institutions incorporated in other states that offer educational programs in California, and public and private California colleges and universities.

(ii) The committee shall develop proposed standards and procedures to be used in the onsite review and licensure of institutions applying for licensure under this paragraph, subject to the principle that educational innovation and competition shall not be hindered unreasonably.

(iii) The committee shall report to the California Postsecondary Education Commission and the Superintendent of Public Instruction by November 1, 1985, regarding the proposed standards and procedures. The commission shall take action on the proposed standards within 60 days of receipt of the report by the special committee. This paragraph shall become inoperative on January 1, 1987, if the commission has not adopted standards and procedures proposed by the special committee by that date.

(iv) The committee shall utilize the following principles in the development of these standards and procedures:

(A) Within two years from the enactment of this statute, the State Department of Education shall review the operations of all institutions operating under the provisions of this subdivision.

(B) Following the initial state review, subsequent onsite reviews by the superintendents shall be conducted wherever possible in conjunction with institutional reviews by the regional accrediting association. However, if there is substantial evidence that the institution is not in compliance with state standards, the superintendent may initiate a special review of the California operations of the institution.

(C) Each institution shall submit a single application for all operations in California, and the application shall include a single fee which is institution-based and not site-based.

(D) The superintendent shall develop a procedural rationale to justify the number of sites to be visited by the state in the review of the institution's operations in California.

(E) The purpose of the onsite review by the superintendent shall be to determine that operations by the institution in California meet the minimum state standards identified in statute.

(F) The standards and procedures shall not unreasonably hinder educational innovation and competition.

(v) Prior to December 31, 1987, the State Department of Education shall utilize the standards and procedures recommended by the special committee and acted upon by the commission to review all institutions operating pursuant to subdivision (d) of Section 94310(a)(2).

(b) The institution, at the time of the issuance of a degree, has full institutional approval by the superintendent to award or issue specific professional, technological, or education degrees.

(1) The superintendent shall not approve an institution to issue degrees until he or she has conducted a qualitative review and assessment of, has approved each program offered by the institution, and has determined all of the following:

(A) The institution has facilities, financial resources,

administrative capabilities, faculty, and other necessary educational expertise and resources to afford students, and require of students, the completion of a program of education that will prepare them for the attainment of a professional, technological, or educational objective, including, but not limited to, a degree.

(B) The curriculum is consistent in quality with curricula offered by appropriate established accredited institutions that are recognized by the United States Department of Education or the Committee of Bar Examiners for the State of California and issue the appropriate degree upon the satisfactory completion of specific qualitative academic programs.

(C) The course for which the degree is granted achieves its professed or claimed academic objective for higher education, with verifiable evidence of academic achievement comparable to that required of graduates of other recognized schools accredited by an appropriate accrediting commission recognized by the United States Department of Education or the Committee of Bar Examiners for the State of California.

The criteria developed for conducting the review and assessment shall effectuate the purposes of this chapter, but shall not unreasonably hinder legitimate educational innovation.

(2) The superintendent shall conduct the qualitative review and assessment of the institution and all programs offered through a comprehensive onsite review process, performed by a qualified visiting committee impaneled by the superintendent for that purpose. The visiting committee, which shall be impaneled by the superintendent within 90 days of the date of receipt of a completed application, shall be composed of educators from both accredited and state approved institutions. Within 90 days of the receipt of the visiting committee's report and recommendations, the superintendent shall take one of the following actions:

(A) Grant full institutional approval for a period not to exceed three years.

(B) Grant candidate for institutional approval status for a period not to exceed two years plus the remainder of the calendar year in which the application was made. Candidate status may be renewed only one time, at the discretion of the superintendent.

(C) Disapprove the application.

If the application is disapproved, or candidate for institutional approval status is granted, the institution shall be advised of the specific reasons for the action and the specific corrective measures needed to achieve full institutional approval. An institution may not advertise itself as an approved or fully approved institution unless each degree program offered by the institution has been approved in accordance with the requirements of this section.

(3) (A) The superintendent shall grant full institutional approval status for three years to all institutions operating pursuant to subdivision (b) of Section 94310 on June 30, 1984, as it read on that date and that have received full approval of all courses offered.

(B) The superintendent shall grant candidate for institutional approval status for a period not to exceed two years to all institutions operating on June 30, 1984, pursuant to both subdivisions (b) and (c) of Section 94310 as it read on that date. The superintendent shall specify a date, prior to June 30, 1986, by which all institutions operating pursuant to this subparagraph shall file a completed application for either full institutional approval pursuant to this subdivision, or authorization to operate pursuant to subdivision (c).

(4) The superintendent may authorize any institution approved to issue degrees pursuant to this subdivision to issue diplomas for the completion of courses of study that do not fully meet the degree requirements, but are within the institution's approved degree program.

The superintendent may approve an application to issue honorary degrees if the applicant institution has received full institutional approval to issue academic degrees.

(c) The institution has demonstrated that it is in compliance with formal standards recommended by the Council for Private Postsecondary Educational Institutions and adopted by the superintendent, which shall include, but not be limited to, the standards developed by the special committee pursuant to Section 94304.5.

(1) The institution shall demonstrate compliance with the standards through a comprehensive onsite review process conducted by a three-member visiting committee impaneled by the superintendent for that purpose pursuant to paragraph (2). The process shall review all of the following:

(A) Institutional objectives.
(B) Administrative methods.
(C) Curriculum.
(D) Instruction.
(E) Faculty, including their qualifications.
(F) Physical facilities.
(G) Administrative personnel.
(H) Procedures for keeping educational records.
(I) Tuition, fee, and refund schedules.
(J) Admissions standards.
(K) Scholastic regulations and graduation requirements.
(L) Degrees offered.
(M) Financial stability, including that the capital assets of the institution are sufficient for the type, level, and number of degree programs offered and that the current assets of the institution are sufficient to serve the number of students then currently enrolled and to meet any tuition or fee refunds that may reasonably be expected under the institution's refund policy.

(2) Within 90 days of the date of receipt of a completed application, the superintendent shall impanel a visiting committee for the purpose of reviewing the applicant institution. The visiting committee shall be composed as follows:

(A) One member appointed by the director of the California Postsecondary Education Commission.

(B) One member appointed by the superintendent from a list of three names submitted by the Council for Private Postsecondary Educational Institutions.

(C) One member appointed by the superintendent from his or her staff, who shall serve as chairperson of the visiting committee.

(D) Additional members may be appointed by the superintendent if the superintendent determines that their technical expertise is necessary to review the applicant institution. These members shall be nonvoting members.

(3) The visiting committee's responsibilities shall include all of the following:

(A) To verify the accuracy of the information submitted by the applicant institution.

(B) To determine whether the applicant institution complies with the standards required by statute and regulation.

(C) To provide the applicant institution with a preliminary report of its findings, including its recommendation regarding the grant of the requested authorization, no later than 30 days following completion of the onsite review. The applicant institution shall provide the visiting committee with any additional information the visiting committee may request within 30 days after receipt of the preliminary report.

(D) To review the applicant institution's response to the preliminary report, and no later than 30 days following receipt of the response, submit a final report to the superintendent. The final report shall include the visiting committee's recommendation for the grant of authorization or for the denial of that authorization.

(4) If the visiting committee's recommendation regarding authorization is not unanimous, the superintendent shall refer the final report to the council or to an appropriate appeals committee of the council for its advice pursuant to paragraph (8) of subdivision (f) of Section 94304.

(5) Within 90 days of the receipt of a unanimous visiting committee's report or the advice of the council, as appropriate, the superintendent shall take one of the following alternative actions:

(A) Grant the applicant institution full authorization for a period not to exceed five years. Authorization pursuant to this subparagraph shall continue to be valid upon payment of the annual renewal fee specified in Section 94331.

(B) Disapprove the application.

The superintendent shall advise the applicant institution of the specific reasons for action taken pursuant to subparagraph (B) and of the specific corrective measures needed to obtain authorization. If those corrective measures have been taken, authorization may then be granted for an initial period not to exceed one year, and for periods of five years upon each subsequent renewal, subject to the payment of the annual renewal fee specified in Section 94331.

(6) Not later than 90 days prior to the expiration of an authorization to operate, an institution shall file a completed application for reauthorization pursuant to subdivision (c) with the superintendent. The reauthorization process for all institutions shall include a full review by a visiting committee.

(7) All institutions operating pursuant to authorization received under this subdivision in effect on June 30, 1984, shall receive conditional authorization for a period not to exceed three years. On a specified date prior to June 30, 1987, determined by the superintendent, each institution granted conditional authorization pursuant to this paragraph shall file a completed application for reauthorization pursuant to subdivision (c).

(8) Authorization received pursuant to this subdivision shall not be interpreted to endorse, and it is unlawful for, any institution to represent by any means that the State of California, the Superintendent of Public Instruction, the State Board of Education, or the State Department of Education has made any accreditation or endorsement of the course of study or degree.

(9) If at any time the superintendent determines that an authorized institution has significantly deviated from the standards for authorization, but not to an extent that would warrant the withdrawal of the institution's authorization, the superintendent may place the institution on probation for a specific period of time. During the period of probation, the institution shall be subject to special scrutiny by the superintendent. That scrutiny may include required submission of periodic reports, as prescribed by the superintendent, and special visits by authorized representatives of the superintendent. If at the end of the specified probation period, the institution has not taken steps to eliminate the cause for its probation which the superintendent finds satisfactory, the superintendent may withdraw the institution's authorization to award degrees. An institution placed on probation pursuant to this paragraph may appeal the superintendent's action to the council. The appeal shall be filed no later than 30 days following the superintendent's initial action pursuant to this paragraph.

(d) The institution is structured by schools of theology, and awards degrees primarily in theology and other areas of religious study, and it has filed all of the following affidavits with the superintendent:

(1) An annual affidavit of "full disclosure" describing the institutional objectives and proposed methods of achieving them, the curriculum, instruction, faculty with qualifications, physical facilities, administrative personnel, educational recordkeeping procedures, tuition and fee schedule, tuition refund schedule, scholastic regulations, degrees to be conferred, graduation requirements, and financial stability as evidenced by a certified financial statement for the preceding year.

(2) An affidavit by the president or other head stating that the institution owns, and shall continue to own, net assets in the amount

of fifty thousand dollars ($50,000) which is used solely for the purpose of education as stated in paragraph (1), located within this state, and stating that these assets provide sufficient resources to achieve the educational objectives of the institution. These assets shall include such real property as buildings and facilities, library materials, and instructional materials, but shall not include other personal property not used directly and exclusively by the institution for the purpose of education. The affidavit shall be accompanied by a statement from a public accountant showing the value of the interest of the institution therein to be at least fifty thousand dollars ($50,000) above the unpaid balance on any note secured by a mortgage, deed of trust, or the unpaid balance on a contract of sale.

(3) An annual affidavit by the president or other head setting forth, as a minimum, all of the following information:

(A) All names, whether real or fictitious, of the person, institution, firm, association, partnership, or corporation under which it has done or is doing business.

(B) The address, including city and street, of every place of doing business of the person, firm, association, partnership, or corporation, within this state.

(C) The address, including city and street, of the location of the records of the person, firm, association, partnership, or corporation, and the name and address, including city and street, of the custodian of those records.

(D) The names and addresses, including city and street, of the directors, if any, and principal officers of the person, firm, association, partnership, or corporation.

(E) That the records required by subdivision (k) of Section 94312 are maintained at the address stated, and are true and accurate.

Any change in the items of information required to be included in this affidavit shall be reported to the superintendent within 20 days of the change.

Within 90 days of the receipt of the affidavits described in paragraphs (1), (2), and (3), and prior to granting the initial authorization to operate, the superintendent shall verify the truthfulness and accuracy of the affidavits by impaneling a three-member team comprised of one representative which he or she shall select, one representative of the California Postsecondary Education Commission, and one representative selected by, but not affiliated with, the institution to be inspected. Within 30 days of the receipt of the report from the three-member team, the superintendent shall grant or deny authorization to operate. Authorization to operate may be denied only if the affidavits are inaccurate. Authorization to operate may be granted for one year initially and for periods of three years upon each subsequent renewal, subject to payment of an annual fee pursuant to Section 94331. For all affidavits beyond the initial application, the superintendent may take any steps necessary to verify the truthfulness and accuracy of the affidavits. Filing pursuant to this

subdivision shall not be interpreted to mean, and it shall be unlawful for, any institution to expressly or impliedly represent by any means whatsoever, that the State of California, the Superintendent of Public Instruction, the State Board of Education, or the State Department of Education has made any evaluation, recognition, accreditation, approval, or endorsement of the course of study or degree.

SEC. 2. Section 94331 of the Education Code is amended to read:

94331. The superintendent shall establish and maintain a Private Postsecondary Education Administration Fund. All fees collected pursuant to this section shall be credited to this fund, along with any interest on the money, for administration of the provisions of this chapter. The money in the fund is continuously appropriated to the State Department of Education without regard to fiscal years. However, if the Legislature makes an appropriation for the support of the Office of Private Postsecondary Education in the Budget Act of any fiscal year, the amount for support of the Office of Postsecondary Education expended from the Private Postsecondary Education Administration Fund during that fiscal year shall not exceed the amount appropriated by the Budget Act.

For the approval or authorization of private institutions operating under this chapter, including the licensure of institutions operating pursuant to paragraph (2) of subdivision (a) of Section 94310, the superintendent shall charge an amount not exceeding the the actual costs of approving or authorizing the private institutions. However, in no case shall these fees exceed the fee schedule in this section, except that these maximum amounts may be increased by a percentage that reflects an increase in the Consumer Price Index, all items of the Bureau of Labor Statistics of the United States Department of Labor, measured for the calendar year preceding the fiscal year to which it applies. If the actual costs incurred exceed the proceeds of the maximum amount so computed, the superintendent may further increase the maximum fee up to the amount of the actual costs incurred, with the approval of the council. The superintendent shall annually publish a schedule of the current fees to be charged pursuant to this section and shall make this schedule generally available to the public.

The following fee schedule shall govern the fees to be paid by private institutions operating under this chapter:

(a) For approval to issue specified degrees pursuant to subdivision (b) of Section 94310:

(1) Fifteen hundred dollars ($1,500) for an institution's original application.

(2) Five hundred dollars ($500) for an institution's annual renewal.

(3) Two hundred dollars ($200) for an institution's change of ownership.

(4) One hundred fifty dollars ($150) for an institution's change of location.

(5) Five hundred dollars ($500) for an institution's additional degree title.

(b) For authorization to issue degrees pursuant to subdivision (c) or (d) of Section 94310:

(1) Fifteen hundred dollars ($1,500) for an institution's original application.

(2) Five hundred dollars ($500) for an institution's annual renewal.

(3) Two hundred dollars ($200) for an institution's change of ownership.

(c) For authorization to issue diplomas or offer courses pursuant to subdivision (c) of Section 94311:

(1) (A) Four hundred dollars ($400) for a new institution.

(B) Two hundred fifty dollars ($250) for an institution converting from approval pursuant to subdivision (d) of Section 94311.

(C) Two hundred dollars ($200) for a new or converted institution of an administrative family.

(2) (A) Two hundred dollars ($200) for an annual renewal of a new or converted institution.

(B) One hundred dollars ($100) for an annual renewal of an administrative family institution.

(d) For approval to issue diplomas or offer courses pursuant to subdivision (d) of Section 94311:

(1) (A) Five hundred dollars ($500) for a new institution.

(B) Two hundred fifty dollars ($250) for a new institution of an administrative family.

(C) Two hundred dollars ($200) for a new institution of a nonprofit public benefit corporation, organized pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code, if such education is limited to instruction in employment and skill training and if it is offered at no charge to those persons receiving such education.

(2) (A) Two hundred twenty-five dollars ($225) for an institution's annual renewal.

(B) One hundred dollars ($100) for an annual renewal of an institution of an administrative family and for an annual renewal of an institution described in subparagraph (C) of paragraph (1) of subdivision (d).

(3) Two hundred dollars ($200) for an institution's change of ownership.

(4) One hundred fifty dollars ($150) for an institution's change of location.

(5) One hundred dollars ($100) for an institution's additional course.

(e) For an annual filing by an ownership to offer career-related education pursuant to Section 94315: Two hundred dollars ($200).

(f) For purposes of this section, "administrative family" refers to two or more institutions under common ownership, and the ownership maintains centralized administration, records, and

reporting at one California location, and has at least a five-year history of private postsecondary education operations in California.

(g) For evaluation of an applicant for a certificate of authorization for service, issued pursuant to paragraph (3) of subdivision (d) of Section 94311, the original and renewal applications for a three-year authorization shall be accompanied by a twenty-five dollar ($25) fee.

(h) For a private school agent's permit pursuant to Section 94333: Twenty-five dollars ($25) annually per applicant.

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 Superintendent of Public Instruction is authorized to exercise jurisdiction over private postsecondary educational institutions based in another state operating one or more branches in California at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1448

An act to add Section 5273 to, and to add and repeal Section 5405.6 of, the Business and Professions Code, relating to advertising displays.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 5273 is added to the Business and Professions Code, to read:

5273. For the purpose of this chapter, advertising displays advertising those businesses and activities developed within the boundary limits of, and as a part of, an individual redevelopment agency project may, with the consent of the redevelopment agency governing the project, be considered to be on the premises anywhere within the limits of that project when all of the land is contiguous or is separated only by a public highway or public facilities developed or relocated for inclusion within the project as a part of the original redevelopment plan for a period not to exceed 10 years or the completion of the project, whichever first occurs, after which Sections 5272 and 5405 apply, unless an arrangement has been made for extension of the period between the redevelopment agency and the department for good cause. The 10-year period for existing displays shall commence on January 1, 1986.

SEC. 2. Section 5405.6 is added to the Business and Professions Code, to read:

5405.6. In addition to the advertising displays permitted by

subdivision (4) of Section 5405, the director, upon the recommendation of the Department of the California Highway Patrol, may authorize the use of existing permitted message center displays or other on-premise displays, on an individual basis, for highway safety appeals. The director is authorized to develop and adopt regulations by executive order which establish standards for the highway safety appeals to the extent that the regulations will not subject the state to the penalties specified in subdivision (b) of Section 131 of Title 23 of the United States Code.

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.

CHAPTER 1449

An act to amend Section 15463 of the Government Code, relating to the County Health Facilities Financing Assistance Fund, and making an appropriation therefor.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 15463 of the Government Code is amended to read:

15463. (a) There is hereby created in the State Treasury, the County Health Facilities Financing Assistance Fund which, notwithstanding Section 13340, is continuously appropriated for the purposes of this section.

(b) (1) The Controller shall transfer to the fund the unexpended balances from appropriations pursuant to Sections 16702 and 16703 of the Welfare and Institutions Code from the 1981–82, 1982–83, and 1983–84 fiscal years and ten million dollars ($10,000,000) from the funds subject to allocation pursuant to Section 6217 of the Public Resources Code in the 1984–85 fiscal year, after the allocations have been made pursuant to that section.

(2) Notwithstanding any other provision of law, out of the amounts received from the settlement pursuant to Section 8(g) of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. Sec. 1337(g)), the Controller shall transfer twenty-five million dollars ($25,000,000) to the fund.

(c) Investment income derived from moneys in the fund shall be utilized by the authority to provide assistance to counties to pay the debt service on loans for, or otherwise assist in the financing of, facilities, as defined in paragraph (8) of subdivision (d) of Section 15432, by doing any of the following:

(1) Paying not more than 50 percent of the debt service on loans

for those facilities or on revenue bonds issued by the authority to finance those facilities, as determined by the authority.

(2) Paying the cost of insurance, letters of credit, lines of credit, or by utilizing other financial devices to enhance the credit of counties in order to secure the payment of debt service on loans for those facilities or on revenue bonds issued by the authority to finance those facilities.

(3) Paying costs, fees, and expenses incurred by counties or the authority in connection with issuing, carrying, or repaying the revenue bonds or financing, acquiring, or constructing those facilities.

(4) Providing any other financial, assistance or support for those facilities, including, but not limited to, payment of any outstanding indebtedness of the county for, or secured by, those facilities, as determined necessary by the authority to carry out the purpose of this subdivision.

(d) The authority may create separate accounts within the fund for each facility assisted pursuant to subdivision (c) or for each assistance program.

(e) Any moneys in the fund which are not required for immediate use or disbursement, as determined by the authority, may be invested in any obligations, as specified by the authority, including, but not limited to, obligations that are exempt from federal income taxation pursuant to Section 103 of the Internal Revenue Code of 1954, as amended, and direct obligations of the United States issued in book entry form.

(f) Notwithstanding any other provision of law, interest earned on the investment of moneys in the fund shall be credited to the fund and shall be available for the purposes specified in subdivision (c).

SEC. 2. Section 15463 of the Government Code is amended to read:

15463. (a) There is hereby created in the State Treasury, the County Health Facilities Financing Assistance Fund which, notwithstanding Section 13340, is continuously appropriated for the purposes of this section.

(b) (1) The Controller shall transfer the following amounts to the fund:

(A) The unencumbered balances from appropriations pursuant to Sections 16702 and 16703 of the Welfare and Institutions Code from the 1981–82, 1982–83, and 1983–84 fiscal years, and each fiscal year thereafter, except any funds appropriated by the Legislature to the State Department of Health Services pursuant to subdivisions (a) and (e) of Section 16707 of the Welfare and Institutions Code and any funds contained in the County Medical Services Program Account or the County Medical Services Program Reserve Account established pursuant to Section 16709 of the Welfare and Institutions Code.

(B) Ten million dollars ($10,000,000) from that portion of the funds in the Special Account for Capital Outlay in the General Fund which is designated for county health authority local assistance.

(2) Notwithstanding any other provision of law, out of the amounts received from the settlement pursuant to Section 8(g) of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. Sec. 1337(g)), the Controller shall transfer twenty-five million dollars ($25,000,000) to the fund.

(c) Investment income derived from moneys in the fund shall be utilized by the authority to provide assistance to counties to pay the debt service on loans for, or otherwise assist in the financing of, facilities, as defined in paragraph (8) of subdivision (d) of Section 15432, by doing any of the following:

(1) Paying not more than 50 percent of the debt service on loans for those facilities or on revenue bonds issued by the authority to finance those facilities, as determined by the authority.

(2) Paying the cost of insurance, letters of credit, lines of credit, or by utilizing other financial devices to enhance the credit of counties in order to secure the payment of debt service on loans for those facilities or on revenue bonds issued by the authority to finance those facilities.

(3) Paying costs, fees, and expenses incurred by counties or the authority in connection with issuing, carrying, or repaying the revenue bonds or financing, acquiring, or constructing those facilities.

(4) Providing any other financial, assistance or support for those facilities, including, but not limited to, payment of any outstanding indebtedness of the county for, or secured by, those facilities, as determined necessary by the authority to carry out the purpose of this subdivision.

(d) The authority may create separate accounts within the fund for each facility assisted pursuant to subdivision (c) or for each assistance program.

(e) Any moneys in the fund which are not required for immediate use or disbursement, as determined by the authority, may be invested in any obligations, as specified, by the authority, including, but not limited to, obligations that are exempt from federal income taxation pursuant to Section 103 of the Internal Revenue Code of 1954, as amended, and direct obligations of the United States issued in book entry form.

(f) Notwithstanding any other provision of law, interest earned on the investment of moneys in the fund shall be credited to the fund and shall be available for the purposes specified in subdivision (c).

SEC. 3. Section 2 of this bill incorporates amendments to Section 15463 of the Government Code proposed by both this bill and AB 104. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, (2) each bill amends Section 15463 of the Goverment Code, and (3) this bill is enacted after AB 104, in which case Section 15463 of the Government Code, as amended by AB 104, 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 1450

An act to repeal and add Article 3 (commencing with Section 133) of Chapter 6 of Title 1 of Part 1 of the Code of Civil Procedure, and to amend Sections 6700 and 6701 of, and to repeal Section 68845 of, the Government Code, relating to the courts.

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

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

SECTION 1. Article 3 (commencing with Section 133) of Chapter 6 of Title 1 of Part 1 of the Code of Civil Procedure is repealed.

SEC. 2. Article 3 (commencing with Section 133) is added to Chapter 6 of Title 1 of Part 1 of the Code of Civil Procedure, to read:

Article 3 Judicial Holidays

133. Courts of justice may be held and judicial business transacted on any day, except as provided in this article.

134. (a) The courts shall be closed for the transaction of judicial business on judicial holidays, except for the following purposes:

(1) To give, upon their request, instructions to a jury when deliberating on their verdict.

(2) To receive a verdict or discharge a jury.

(3) For the exercise of the powers of a magistrate in a criminal action, or in a proceeding of a criminal nature.

(b) Injunctions and writs of prohibition may be issued and served on any day.

135. Every full day designated as a holiday by Section 6700 of the Government Code is a judicial holiday. If a judicial holiday falls on a Saturday or a Sunday, the Judicial Council may designate an alternative day for observance of the holiday. Officers and employees of the courts shall observe only the judicial holidays established pursuant to this section.

136. If a day appointed for the holding or sitting of a court, or to which it is adjourned, falls on a judicial holiday, it shall be deemed appointed for or adjourned to the next day.

SEC. 3. Section 6700 of the Government Code is amended to read:

6700. The holidays in this state are:

(a) Every Sunday.

(b) January 1st.

(c) The third Monday in January, known as "Dr. Martin Luther

King, Jr. Day."

(d) February 12th, known as "Lincoln Day."

(e) The third Monday in February.

(f) The last Monday in May.

(g) July 4th.

(h) The first Monday in September.

(i) September 9th, known as "Admission Day."

(j) The second Monday in October, known as "Columbus Day."

(k) November 11th, known as "Veterans Day."

(*l*) December 25th.

(m) Good Friday from 12 noon until 3 p.m.

(n) Every day appointed by the President or Governor for a public fast, thanksgiving, or holiday.

Except for the Thursday in November appointed as Thanksgiving Day, this subdivision and subdivision (c) shall not apply to a city, county, or district unless made applicable by charter, or by ordinance or resolution of the governing body thereof.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if those provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 4. Section 6701 of the Government Code is amended to read:

6701. If January 1st, February 12th, July 4th, September 9th, November 11th, or December 25th falls upon a Sunday, the Monday following is a holiday. If November 11th falls upon a Saturday, the preceding Friday is a holiday.

If any holiday designated in Section 6700 falls on a Saturday, the board of supervisors of any county may by ordinance or resolution provide that an alternate day shall be a holiday for the employees of the county, except those employees of the county working as court attachés or as clerks of the superior, municipal, or justice courts.

SEC. 5. Section 68845 of the Government Code is repealed.

SEC. 6. (a) Sections 1 to 4, inclusive, of this act shall become operative on January 1, 1989.

(b) Prior to January 31, 1986, the Judicial Council shall designate by rule the alternative days for the observance of holidays falling on a Saturday or a Sunday, on which the courts shall be closed, on and after January 1, 1989, for the transaction of judicial business.

SEC. 7. It is the intent of the Legislature in delaying the operation of Sections 1 to 4, inclusive, of this act until January 1, 1989, that counties be afforded adequate time to negotiate compliance with this act in their memoranda of understanding with any affected public employees.

SEC. 8. 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 1451

An act to amend and supplement the Budget Act of 1985 by amending Item 3720-001-890 thereof and by adding Item 3720-003-890 thereto, relating to coastal resources, and making an appropriation therefor.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

I am eliminating the $296,000 for support of the California Coastal Commission contained in Section 2 1 of Senate Bill 1332 The need for the additional funding contained in this bill has not been substantiated I am approving $344,000 in this bill to provide $14,000 for support of the San Francisco Bay Conservation and Development Commission and $330,000 for local assistance programs and activities which facilitate completion and implementation of local coastal programs

With this reduction, I approve Senate Bill No 1332

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Item 3720-001-890 of the Budget Act of 1985 (Chapter 111, Statutes of 1985) is amended to read:

3720-001-890—For support of California Coastal Commission, for transfer to Item 3720-001-001, payable from special federal funds disbursed pursuant to the Federal Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et seq.) and deposited in the Federal Trust Fund 1,360,000

Provision:

1. Of the amount appropriated in this item, $694,000 shall be for the support of the California Coastal Commission, $186,000 shall be for the support of the San Francisco Bay Conservation and Development Commission, and $480,000 shall be for the support of the State Coastal Conservancy.

SEC. 2. Item 3720-003-890 is added to the Budget Act of 1985 (Chapter 111, Statutes of 1985), to read:

3720-003-890—For support of the California Coastal

Commission and for local assistance, payable from special federal funds disbursed pursuant to the Federal Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et seq.) and deposited in the Federal Trust Fund 640,000

Provisions:

1. Of the amount appropriated in this item, $296,000 may be expended by the California Coastal Commission for support and $14,000 may be expended by the San Francisco Bay Conservation and Development Commission for support.
2. The remaining amount shall be expended by the California Coastal Commission and the State Coastal Conservancy in a manner consistent with the restrictions of the federal Coastal Zone Management Act of 1972, as amended, for local assistance programs and activities that facilitate completion and implementation of local coastal programs.

CHAPTER 1452

An act to repeal Section 1141.32 of the Code of Civil Procedure, relating to judicial arbitration, and making an appropriation therefor.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

I am deleting the annual appropriation of $4 million (commencing in the 1986–87 fiscal year) contained in Section 2 of Assembly Bill No 48.

State funding for the judicial arbitration program should be reviewed annually to insure that both the legislative and executive branches have an ongoing review of the program and its attendant cost to the State

With this deletion, I approve Assembly Bill No 48

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Section 1141.32 of the Code of Civil Procedure is repealed.

SEC. 2. There is hereby appropriated from the General Fund to the Controller for allocation and disbursement for purposes of this act the sum of two million dollars ($2,000,000) for the 1985–86 fiscal year and the sum of four million dollars ($4,000,000), annually, for each fiscal year thereafter.

CHAPTER 1453

An act to add Section 238 to the Water Code, relating to water resources, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

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

I am deleting the $2,200,000 appropriation contained in Section 3 of Senate Bill No 674

After reviewing this legislation, I have concluded that its merits do not outweigh the need for funding top priority programs and continuing a prudent reserve for economic uncertainties

The demands placed on budget resources require all of us to set priorities The budget enacted in July of 1985 appropriated over $28 billion (from the General Fund) to essential services provided by State government as determined by the Legislature and this Administration This represents an 11 5% increase in expenditures over the budget enacted in July of 1984 That increase was for the purpose of funding priority programs while at the same time maintaining our reserve and preserving our fiscal integrity It is imperative that the State of California continues to live within its means

Therefore, while not issuing a conclusion on the merits of this appropriation, I have determined that it cannot be approved if we are to stay on our prescribed course of fiscal responsibility

With this deletion, I approve Senate Bill No 674, which will authorize the Department of Water Resources to use $400,000 for an alternative bank protection demonstration project in the vicinity of Woodson Bridge on the Sacramento River

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Section 238 is added to the Water Code, to read:

238. (a) The department shall conduct studies of the Sacramento River and the Feather River and their tributaries north of Sacramento, including watershed hydrologic inventories and studies of water sources and supplies to meet local needs, flood control, water quality, seepage and erosion control, fishery restoration, and preservation of riparian habitat. The department shall submit the results of its studies and its recommendations to the Legislature.

SEC. 2. Notwithstanding any other provision of law, up to four hundred thousand dollars ($400,000) of the amount appropriated to the Department of Water Resources in subdivision (2) of Item 3860-301-036 (30.95.010 - Sacramento-San Joaquin River Bank Protection Program) of the Budget Act of 1985 (Chapter 111 of the Statutes of 1985) may be used by the department for the design, construction, maintenance, and monitoring of an alternative bank protection demonstration project in the vicinity of Woodson Bridge on the Sacramento River.

SEC. 3. The sum of two million two hundred thousand dollars ($2,200,000) is hereby appropriated from the contingency reserve for economic uncertainties established within the General Fund by Section 12.30 of the Budget Act of 1985 (Chapter 111 of the Statutes of 1985) to the Department of Water Resources for expenditure as follows:

(a) The sum of two hundred thousand dollars ($200,000) for the acquisition and installation of an Automated Local Evaluation in Real Time (ALERT) flood warning system in locations to be determined by the department. Because of the imminent threat of severe, wildfire-induced flood damage during the 1985–86 flood season, the department may use urgency purchasing and contracting procedures as determined to be necessary to acquire and install this warning system.

(b) The sum of two million dollars ($2,000,000) for assistance to local agencies in preventing further wildfire-induced damage during the 1985–86 flood season. Among other purposes, this appropriation may be utilized by the department (1) to evaluate the probable effectiveness of protective works proposed by local agencies, (2) to meet the requirements for nonfederal financial participation under flood prevention programs of the federal government, provided local agencies expend at least 10 percent of the total cost of federally assisted protective work, and (3) to meet the requirements for flood prevention programs not eligible for federal funds, provided local agencies extend at least 25 percent of the total cost for state assisted protective work. For the purposes of this subdivision, the Juncal Dam Watershed of Santa Barbara County and the Lexington Dam Watershed of Santa Clara County are eligible for state assistance.

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:

Widespread wildfires have stripped protective vegetation away from many areas, exposing the state to potentially severe flooding problems in major burn areas. In order for the flood warning system and funding provided for by this act to be effective during the 1985–86 flood season, it is necessary that this act take effect immediately. In addition, in order for the Department of Water Resources to perform necessary river studies and river bank protection work in as timely a manner as possible, it is necessary that this act take effect immediately.

CHAPTER 1454

An act to amend Section 72252 of the Education Code, relating to community colleges.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 72252 of the Education Code is amended to read:

72252. (a) Commencing with the semester, term, or quarter which begins after July 31, 1984, the governing board of each community college district shall charge each student a fee, pursuant to this section.

(b) The fee prescribed by this section shall equal fifty dollars ($50) per semester for students enrolled in classes totaling six or more credit semester units, and five dollars ($5) per unit per semester for students enrolled in classes totaling less than six credit semester units.

The chancellor shall proportionately adjust the amount of the fee for term lengths based upon a quarter system or other alternative system approved pursuant to Section 78002, and shall also proportionately adjust the amount of the fee for summer sessions, intersessions, and other short-term courses. In making these adjustments, the chancellor may round the per unit fee and the per term or per session fee to the nearest dollar.

(c) For the purposes of computing apportionments to community college districts, 98 percent of the revenues received by districts from charging a fee pursuant to this section or from fees defrayed pursuant to subdivision (f) shall be deemed to be local property tax revenue within the meaning of subdivision (b) of Section 84700.

(d) The chancellor shall reduce apportionments by up to 10 percent to any district which does not collect the fees prescribed by this section.

(e) The fee requirement shall not apply to students enrolled in the noncredit courses designated by Section 84711, or to California State University or University of California students enrolled in remedial classes provided by a community college district on a campus of the University of California or a campus of the California State University, for whom the district claims an attendance apportionment pursuant to an agreement between the district and the California State University or the University of California.

(f) The governing board of a community college district may exempt special part-time students admitted pursuant to Section 76001 from the fee requirement.

(g) The fee requirements of this section shall be defrayed pursuant to Section 19 of Chapter 1 of the 1983–84 Second Extraordinary Session for any student who, at the time of enrollment, is a recipient of benefits under the Aid to Families with Dependent Children program, the Supplemental Security Income/State Supplementary Program, or a general assistance program.

(h) The requirements of Section 69534 shall apply to financial aid applicants enrolling in six or more credit semester units, but shall not apply to financial aid applicants who seek aid only for the fees required by this section and who enroll for less than six credit semester units. The chancellor shall prescribe a financial aid application for students enrolling in less than six credit semester

units.

(i) The board of governors shall adopt regulations implementing this section as regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(j) 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 72252 of the Education Code is amended to read:

72252. (a) Commencing with the semester, term, or quarter which begins after July 31, 1984, the governing board of each community college district shall charge each student a fee, pursuant to this section.

(b) The fee prescribed by this section shall equal fifty dollars ($50) per semester for students enrolled in classes totaling seven or more credit semester units, and five dollars ($5) per unit per semester for students enrolled in classes totaling less than seven credit semester units.

The chancellor shall proportionately adjust the amount of the fee for term lengths based upon a quarter system or other alternative system approved pursuant to Section 78002, and shall also proportionately adjust the amount of the fee for summer sessions, intersessions, and other short-term courses. In making these adjustments, the chancellor may round the per unit fee and the per term or per session fee to the nearest dollar.

(c) For the purposes of computing apportionments to community college districts, 98 percent of the revenues received by districts from charging a fee pursuant to this section or from fees defrayed pursuant to subdivision (f) shall be deemed to be local property tax revenue within the meaning of subdivision (b) of Section 84700.

(d) The chancellor shall reduce apportionments by up to 10 percent to any district which does not collect the fees prescribed by this section.

(e) The fee requirement shall not apply to students enrolled in the noncredit courses designated by Section 84711, or to California State University or University of California students enrolled in remedial classes provided by a community college district on a campus of the University of California or a campus of the California State University, for whom the district claims an attendance apportionment pursuant to an agreement between the district and the California State University or the University of California.

(f) The governing board of a community college district may exempt special part-time students admitted pursuant to Section 76001 from the fee requirement.

(g) The fee requirements of this section shall be defrayed pursuant to Section 19 of Chapter 1 of the 1983–84 Second Extraordinary Session for any student who, at the time of enrollment, is a recipient of benefits under the Aid to Families with Dependent Children program, the Supplemental Security Income/State

Supplementary Program, or a general assistance program.

(h) The requirements of Section 69534 shall apply to financial aid applicants enrolling in seven or more credit semester units, but shall not apply to financial aid applicants who seek aid only for the fees required by this section and who enroll for less than seven credit semester units. The chancellor shall prescribe a financial aid application for students enrolling in less than seven credit semester units.

(i) The board of governors shall adopt regulations implementing this section as regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(j) 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. 3. Sections 1 and 2 of this act shall become operative on July 1, 1986, except as otherwise provided in Section 4.

SEC. 4. Section 2 of this bill incorporates amendments to Section 72252 of the Education Code proposed by both this bill and AB 979. 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 72252 of the Education Code, and (3) this bill is enacted after AB 979, in which case Section 72252 of the Education Code, as amended by Section 1 of AB 979, shall remain operative only until July 1, 1986, at which time Section 2 of this bill shall become operative, and Section 1 of this bill shall not become operative.

CHAPTER 1455

An act to amend the heading of Article 8 (commencing with Section 60110) of Chapter 1 of Part 33 of, and to add Sections 51220.1 and 60115 to, the Education Code, and to amend Sections 1660.8, 11113, and 27360 of the Vehicle Code, relating to vehicles, and making an appropriation therefor.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

I am deleting the $262,750 General Fund appropriation contained in Section 10 of Senate Bill No 127

I am supportive of this legislation which would ensure that young people are informed of the hazards of drinking or the use of drugs while driving a vehicle However, I am not convinced of the need for the additional funding called for by this bill

The demands placed on budget resources require all of us to set priorities The budget enacted in July of 1985 appropriated over $28 billion (from the General Fund) to essential services provided by State government as determined by the Legislature and this Administration This represents an 11 5% increase in expenditures over the budget enacted in July of 1984 That increase was for the purpose of funding priority programs while at the same time maintaining our reserve and preserving our fiscal integrity It is imperative that the State of California continues to live within its means

With this deletion, I approve Senate Bill No 127

GEORGE DEUKMEJIAN, Governor

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 curriculum developed by the State Department of Education and the Governor's Intergovernmental Advisory Committee on Alcohol, Drugs, and Traffic Safety for purposes of alcohol and drug abuse prevention education be utilized for purposes of this act.

SEC. 2. Section 51220.1 is added to the Education Code, to read:

51220.1. In addition to the requirements specified in subdivision (j) of Section 51220, automobile driver education shall be designed to develop a knowledge of the dangers involved in consuming alcohol or drugs in connection with the operation of a motor vehicle.

SEC. 3. The heading of Article 8 (commencing with Section 60110) of Chapter 1 of Part 33 of the Education Code is amended to read:

Article 8. Instructional Materials on Alcohol and Drug Education

SEC. 4. Section 60115 is added to the Education Code, to read:

60115. (a) The State Department of Education shall assemble, coordinate, and make available to the public schools and to private driving schools in this state, upon request, for their use in driver education programs, any relevant programs, materials, and information prepared or compiled by the Governor's Intergovernmental Advisory Committee on Alcohol, Drugs, and Traffic Safety.

(b) The Superintendent of Public Instruction shall allow to each school district maintaining a high school, county superintendents of schools, and the Department of the Youth Authority an amount not to exceed one dollar ($1) per pupil instructed in driver education during the preceding fiscal year. At least 50 percent of the funds received pursuant to this subdivision shall be used for the purchase of related instructional materials or for related in-service training for teachers, or both. Funds to implement this subdivision shall be provided when appropriated by the Legislature from the Driver Training Penalty Assessment Fund.

SEC. 5. Section 1660.8 of the Vehicle Code is amended to read:

1660.8. The money in the First Offender Program Evaluation Fund shall be used only for purposes of evaluating first offender programs; for purposes of educational programs relating to alcohol, drug, or other substance abuse; and for the administration of the fund, and may be expended only upon appropriation of the Legislature.

This section shall remain in effect only until July 1, 1987, and as of that date is repealed. Any moneys remaining in the fund and unencumbered at that time shall be transferred to the General Fund.

SEC. 6. Section 11113 of the Vehicle Code is amended to read:

11113. The director may prescribe rules and regulations for driving schools regarding the conduct of courses of driver education and driver training, including curriculum, facilities, and equipment. The rules and regulations regarding curriculum shall require information relating to the dangers involved in consuming alcohol or drugs in connection with the operation of a motor vehicle. The director may also prescribe rules and regulations for the conduct of driving instructor training courses required by Sections 11102.5 and 11104, including curriculum, facilities, and equipment. The department shall monitor instruction given by driving schools.

SEC. 7. Section 27360 of the Vehicle Code is amended to read:

27360. (a) It is unlawful for the parent or legal guardian, when present in a passenger vehicle or motor truck of less than 6,001 pounds unladen weight which is owned by him or her and registered in this state, to permit his or her child or ward under the age of four years or weighing less than 40 pounds to be transported upon a highway in the motor vehicle without providing and properly using, for each such child or ward, a child passenger seat restraint system meeting applicable federal motor vehicle safety standards.

Any charge under this subdivision shall be dismissed when the person charged produces in court proof that a child passenger seat restraint system has been obtained for use of the child, except that, upon a second or subsequent charge, the court, in its discretion, may dismiss the charge. In lieu of dismissal upon proof that a child passenger restraint system has been obtained and in lieu of the imposition of any fine for a violation of this subdivision, the court may order a person found guilty of a violation of this subdivision to attend a program providing education in the use of child passenger restraint systems.

(b) It is unlawful for the parent or legal guardian, when present in a passenger vehicle or motor truck of less than 6,001 pounds unladen weight which is not owned by him or her but which is registered in this state, to permit his or her child or ward under the age of four years or weighing less than 40 pounds to be transported upon a highway in the motor vehicle without providing and properly securing his or her child or ward in either a child passenger restraint system meeting applicable federal motor vehicle safety standards or available seat belts.

(c) It is unlawful for any driver to transport on a highway any child under four years of age or weighing less than 40 pounds in a passenger vehicle or motor truck of less than 6,001 pounds unladen weight which is registered in this state without providing and properly securing the child in either a passenger seat restraint system meeting applicable federal motor vehicle safety standards or available seat belts. This subdivision shall not apply to a driver if the parent or legal guardian of the child is also present in the vehicle and is not the driver.

SEC. 8. 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. 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.

SEC. 10. The sum of two hundred sixty-two thousand seven hundred fifty dollars ($262,750) is hereby appropriated from the First Offender Program Evaluation Fund, created in the General Fund by Section 1660.7 of the Vehicle Code, to the State Department of Education for allocation as follows:

(a) Twenty-thousand dollars ($20,000) to the department for purposes of subdivision (a) of Section 60115 of the Education Code.

(b) Two hundred forty-two thousand seven hundred fifty dollars ($242,750) to the Superintendent of Public Instruction, in augmentation of any appropriations of the Legislature from the Driver Training Penalty Assessment Fund, for the purposes of subdivision (b) of Section 60115 of the Education Code.

CHAPTER 1456

An act to amend Sections 81009.5, 82018, 84212, 84215, and 90002 of, to add Sections 82027.5, 82047.5, 84200.5, 84200.6, 84200.7, 84200.8, 84202.5, and 84203.5 to, to repeal and add Sections 84200, 84203, 84204, 84205, and 84206 of, and to repeal Sections 84201, 84202, 84207, 84208, and 84210 of, the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 81009.5 of the Government Code is amended to read:

81009.5. (a) Any local government agency which has enacted, enacts, amends, or repeals an ordinance or other provision of law affecting campaign contributions and expenditures shall file a copy of the action with the commission.

(b) Notwithstanding the provisions of Section 81013, no local government agency shall enact any ordinance imposing filing requirements additional to or different from those set forth in Chapter 4 for elections held in its jurisdiction unless the additional or different filing requirements apply only to the candidates seeking

election in that jurisdiction, their controlled committees or committees formed primarily to support or oppose their candidacies, and to committees formed primarily to support or oppose a local ballot measure which is being voted on only in that jurisdiction.

SEC. 2. Section 82018 of the Government Code is amended to read:

82018. (a) Except as provided in subdivisions (b), (c), and (d), "cumulative amount" means the amount of contributions received or expenditures made in the calendar year.

(b) For a filer required to file a campaign statement or independent expenditure report in one year in connection with an election to be held in another year, the period over which the cumulative amount is calculated shall end on the closing date of the first semiannual statement filed after the election.

(c) For a filer required to file a campaign statement in connection with the qualification of a measure which extends into two calendar years, the period over which the cumulative amount is calculated shall end on the closing date for the campaign statement required by paragraph 3 of subdivision (f) of Section 84200.5.

(d) For a person filing a campaign statement with a period modified by the provisions of this section, the next period over which the cumulative amount is calculated shall begin on the day after the closing date of the statement.

SEC. 3. Section 82027.5 is added to the Government Code, to read:

82027.5. (a) "General purpose committee" means all committees pursuant to subdivisions (b) or (c) of Section 82013, and any committee pursuant to subdivision (a) of Section 82013 which is formed or exists primarily to support or oppose more than one candidate or ballot measure, except as provided in Section 82047.5.

(b) A "state general purpose committee" is a committee to support or oppose candidates or measures voted on in a state election, or in more than one county.

(c) A "county general purpose committee" is a committee to support or oppose candidates or measures voted on in only one county, or in more than one jurisdiction within one county.

(d) A "city general purpose committee" is a committee to support or oppose candidates or measures voted on in only one city.

SEC. 4. Section 82047.5 is added to the Government Code, to read:

82047.5. "Primarily formed committee" means a committee pursuant to subdivision (a) of Section 82013 which is formed or exists primarily to support or oppose a single candidate or a single measure, or a group of specific candidates being voted upon in the same city or county election.

SEC. 5. Section 84200 of the Government Code is repealed.

SEC. 6. Section 84200 is added to the Government Code, to read:

84200. (a) Except as provided in paragraphs (1), (2), and (3), elected officers, candidates, and committees pursuant to subdivision

(a) of Section 82013 shall file semiannual statements each year no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31.

(1) A candidate who, during the past six months has filed a declaration pursuant to Section 84206 shall not be required to file a semiannual statement for that six-month period.

(2) Elected officers whose salaries are less than one hundred dollars ($100) a month, judges, judicial candidates, and their controlled committees shall not file semiannual statements pursuant to this subdivision for any six-month period in which they have not made or received any contributions or made any expenditures.

(3) A committee formed primarily to support or oppose the qualification of a measure shall not be required to file a semiannual statement until after the filing date for the campaign statement required by subdivision (f) of Section 84200.5.

(b) All committees pursuant to subdivision (b) or (c) of Section 82013 shall file campaign statements each year no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31, if they have made contributions or independent expenditures during the six-month period before the closing date of the statements.

SEC. 6.5. Section 84200 is added to the Government Code, to read:

84200. (a) Except as provided in paragraphs (1) and (2), elected officers, candidates, and committees pursuant to subdivision (a) of Section 82013 shall file semiannual statements each year no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31.

(1) A candidate who, during the past six months has filed a declaration pursuant to Section 84206 shall not be required to file a semiannual statement for that six-month period.

(2) Elected officers whose salaries are less than one hundred dollars ($100) a month, judges, judicial candidates, and their controlled committees shall not file semiannual statements pursuant to this subdivision for any six-month period in which they have not made or received any contributions or made any expenditures.

(b) All committees pursuant to subdivision (b) or (c) of Section 82013 shall file campaign statements each year no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31, if they have made contributions or independent expenditures during the six-month period before the closing date of the statements.

SEC. 7. Section 84200.5 is added to the Government Code, to read:

84200.5. In addition to the campaign statements required by Section 84200, elected officers, candidates, and committees must file preelection statements as follows:

(a) During an even-numbered year, all elected state officers, their controlled committees, and committees primarily formed to support

or oppose an elected state officer shall file the preelection statements specified in Section 84200.7.

(b) During an even-numbered year, all candidates being voted upon on the first Tuesday after the first Monday in June or November, their controlled committees, and committees primarily formed to support or oppose a candidate or a measure being voted upon on the first Tuesday after the first Monday in June or November of an even-numbered year shall file the preelection statements specified in subdivision (a) or (b) of Section 84200.7; provided that a candidate, a controlled committee, or a committee primarily formed to support or oppose a candidate or a measure is not required to file statements in connection with the November election pursuant to subdivision (b) of Section 84200.7 if the candidate or measure is not being voted upon in the November election.

(c) All candidates being voted upon on a date other than the first Tuesday after the first Monday in June or November of an even-numbered year, their controlled committees, and committees primarily formed to support or oppose a candidate or a measure being voted upon on a date other than the first Tuesday after the first Monday in June or November of an even-numbered year shall file the preelection statements specified in Section 84200.8.

(d) During an even-numbered year, state and county general purpose committees formed pursuant to subdivision (a) of Section 82013 shall file the statements specified in Section 84200.7 if they make contributions or independent expenditures totaling five hundred dollars ($500) or more during the period covered by the preelection statement. State and county general purpose committees formed pursuant to subdivision (b) or (c) of Section 82013 are not required to file the statements specified in Section 84200.7.

(e) City general purpose committees shall file statements as follows:

(1) City general purpose committees in a city which has an election on the first Tuesday after the first Monday in June or November of an even-numbered year shall file the statements specified in subdivision (a) or (b) of Section 84200.7 for the six-month period in which the city election is held, if they make contributions or independent expenditures totaling five hundred dollars ($500) or more during the period covered by the preelection statement.

(2) City general purpose committees in a city which has an election on a date other than the first Tuesday after the first Monday in June or November of an even-numbered year shall file the preelection statements specified in Section 84200.8 if they make contributions or independent expenditures totaling five hundred dollars ($500) or more during the period covered by the preelection statement.

(f) Committees primarily formed to support or oppose the qualification of a ballot measure and proponents of a state ballot

measure who control a committee primarily formed to support or oppose the qualification of a measure shall file a statement for the period ending 28 days after the deadline for filing petitions, or 28 days after the measure has either qualified or failed to qualify, no later than 35 days after the deadline for filing petitions, or 35 days after the measure has either qualified or failed to qualify, whichever is earlier.

SEC. 8. Section 84200.5 is added to the Government Code, to read:

84200.5. In addition to the campaign statements required by Section 84200, elected officers, candidates, and committees must file preelection statements as follows:

(a) During an even-numbered year, all elected state officers, their controlled committees, and committees primarily formed to support or oppose an elected state officer shall file the preelection statements specified in Section 84200.7.

(b) During an even-numbered year, all candidates being voted upon on the first Tuesday after the first Monday in June or November, their controlled committees, and committees primarily formed to support or oppose a candidate or a measure being voted upon on the first Tuesday after the first Monday in June or November of an even-numbered year shall file the preelection statements specified in subdivision (a) or (b) of Section 84200.7; provided that a candidate, a controlled committee, or a committee primarily formed to support or oppose a candidate or a measure is not required to file statements in connection with the November election pursuant to subdivision (b) of Section 84200.7 if the candidate or measure is not being voted upon in the November election.

(c) All candidates being voted upon on a date other than the first Tuesday after the first Monday in June or November of an even-numbered year, their controlled committees, and committees primarily formed to support or oppose a candidate or a measure being voted upon on a date other than the first Tuesday after the first Monday in June or November of an even-numbered year shall file the preelection statements specified in Section 84200.8.

(d) During an even-numbered year, state and county general purpose committees formed pursuant to subdivision (a) of Section 82013 shall file the statements specified in Section 84200.7 if they make contributions or independent expenditures totaling five hundred dollars ($500) or more during the period covered by the preelection statement. State and county general purpose committees formed pursuant to subdivision (b) or (c) of Section 82013 are not required to file the statements specified in Section 84200.7.

(e) City general purpose committees shall file statements as follows:

(1) City general purpose committees in a city which has an election on the first Tuesday after the first Monday in June or November of an even-numbered year shall file the statements

specified in subdivision (a) or (b) of Section 84200.7 for the six-month period in which the city election is held, if they make contributions or independent expenditures totaling five hundred dollars ($500) or more during the period covered by the preelection statement.

(2) City general purpose committees in a city which has an election on a date other than the first Tuesday after the first Monday in June or November of an even-numbered year shall file the preelection statements specified in Section 84200.8 if they make contributions or independent expenditures totaling five hundred dollars ($500) or more during the period covered by the preelection statement.

(f) Committees primarily formed to support or oppose the qualification of a ballot measure and proponents of a state ballot measure who control a committee primarily formed to support the qualification of a ballot measure shall file the following statements:

(1) During an even-numbered year, the statements specified in Section 84200.7 if the committee has received contributions totaling five hundred dollars ($500) or more or made expenditures totaling five hundred dollars ($500) or more during the period covered by the statement.

(2) During an odd-numbered year, the statements specified in Section 84200.7 for the immediately preceding even-numbered year if the committee has received contributions totaling five hundred dollars ($500) or more or made expenditures totaling five hundred dollars ($500) or more during the period covered by the statement.

(3) For the period ending 28 days after the deadline for filing petitions, or 28 days after the measure has either qualified or failed to qualify, whichever is earlier, a statement to be filed no later than 35 days after the measure has either qualified or failed to qualify, whichever is earlier.

SEC. 9. Section 84200.6 is added to the Government Code, to read:

84200.6. In addition to the campaign statements required by Sections 84200 and 84200.5, all candidates and committees shall file the following special statements and reports:

(a) Supplemental preelection statements when required by Section 84202.5.

(b) Late contribution reports when required by Section 84203.

(c) Independent expenditure reports when required by Section 84203.5.

(d) Late independent expenditure reports when required by Section 84204.

SEC. 10. Section 84200.7 is added to the Government Code, to read:

84200.7. (a) Preelection statements for the June election period shall be filed as follows:

(1) For the period ending March 17, a statement to be filed no later than March 22.

(2) For the period ending 17 days before the election, a statement to be filed no later than 12 days before the election. This statement shall be delivered in person or by guaranteed overnight mail through the United States Postal Service.

(b) Preelection statements for the November election period shall be filed as follows:

(1) For the period ending September 30, a statement to be filed no later than October 5.

(2) For the period ending 17 days before the election, a statement to be filed no later than 12 days before the election. This statement shall be delivered in person or by guaranteed overnight mail through the United States Postal Service.

SEC. 11. Section 84200.8 is added to the Government Code, to read:

84200.8. Preelection statements shall be filed under this section as follows:

(a) For the period ending 45 days before the election, the statement shall be filed no later than 40 days before the election.

(b) For the period ending 17 days before the election, the statement shall be filed no later than 12 days before the election. This statement shall be delivered in person or by guaranteed overnight mail through the United States Postal Service.

(c) For runoff elections held within 60 days of the qualifying election, an additional preelection statement for the period ending 17 days before the runoff election shall be filed no later than 12 days before the election. This statement shall be delivered in person or by guaranteed overnight mail through the United States Postal Service.

SEC. 11.5. Section 84201 of the Government Code is repealed.

SEC. 12. Section 84202 of the Government Code is repealed.

SEC. 13. Section 84202.5 is added to the Government Code, to read:

84202.5. (a) Any candidate or any committee pursuant to subdivision (a) of Section 82013 which makes contributions totaling five thousand dollars ($5,000) or more in connection with an election, including a runoff election, shall file a supplemental preelection statement no later than 12 days before the election, for the period ending 17 days before the election. This statement shall be delivered in person or by guaranteed overnight mail through the United States Postal Service, and shall be filed with each office with which the candidate or committee filing the statement is required to file its next campaign statement pursuant to Section 84215.

(b) This section shall not apply to candidates or committees during any six-month period in which the candidate or committee is required to file preelection statements pursuant to Section 84200.5.

SEC. 14. Section 84203 of the Government Code is repealed.

SEC. 15. Section 84203 is added to the Government Code, to read:

84203. (a) Each candidate or committee that makes or receives a late contribution, as defined in Section 82036, shall report the late contribution to each office with which the candidate or committee

is required to file its next campaign statement pursuant to Section 84215. The candidate or committee that makes the late contribution shall report his or her full name and street address and the full name and street address of the person to whom the late contribution has been made, the office sought if the recipient is a candidate, or the ballot measure number or letter if the recipient is a committee primarily formed to support or oppose a ballot measure, and the date and amount of the late contribution. The recipient of the late contribution shall report his or her full name and street address, and the date and amount of the late contribution. The recipient shall also report the full name of the contributor, his or her street address, occupation, and the name of his or her employer, or if self-employed, the name of the business.

(b) A late contribution shall be reported by mailgram, telegram, guaranteed overnight mail through the United States Postal Service, or personal delivery within 24 hours of the time it is made in the case of the candidate or committee that makes the contribution and within 24 hours of the time it is received in the case of the recipient. A late contribution shall be reported on subsequent campaign statements without regard to reports filed pursuant to this section.

(c) A late contribution need not be reported nor shall it be deemed accepted if it is not cashed, negotiated, or deposited and is returned to the contributor within 24 hours of its receipt.

(d) A report filed pursuant to this section shall be in addition to any other campaign statement required to be filed by this chapter.

SEC. 16. Section 84203.5 is added to the Government Code, to read:

84203.5. (a) In addition to any campaign statements required by this article, if a candidate or committee has made independent expenditures totaling five hundred dollars ($500) or more in a calendar year to support or oppose a candidate, a measure or qualification of a measure, it shall file independent expenditure reports at the same time, covering the same periods, and in the places where the candidate or committee would be required to file campaign statements under this article, as if it were formed or existing primarily to support or oppose the candidate or measure or qualification of the measure. No independent expenditure report need be filed to cover a period for which there has been no activity to report.

(b) An independent expenditure report shall contain the following information.

(1) The name, street address, and telephone number of the candidate or committee making the expenditure and of the committee's treasurer, and the number assigned to the committee by the Secretary of State.

(2) If the report is related to a candidate, the full name of the candidate and the office and district for which the candidate seeks nomination or election. If the report is related to a measure or qualification of a measure, the number or letter of the measure, or

if none has yet been assigned, a brief description of the subject matter of the measure, and the jurisdiction in which the measure is to be voted on or would be voted on if it qualified.

(3) The total amount of expenditures related to the candidate or measure during the period covered by the report made to persons who have received less than one hundred dollars ($100).

(4) The total amount of expenditures related to the candidate or measure during the period covered by the report made to persons who have received one hundred dollars ($100) or more.

(5) For each person to whom an expenditure of one hundred dollars ($100) or more related to the candidate or measure has been made during the period covered by the report and for each person who has provided consideration for an expenditure of one hundred dollars ($100) or more during the period covered by the report:

(A) His or her full name.

(B) His or her street address.

(C) If the person is a committee, the name of the committee, the number assigned to the committee by the Secretary of State, or if no number has been assigned, the full name and street address of the treasurer of the committee.

(D) The date of the expenditure.

(E) The amount of the expenditure.

(F) A brief description of the consideration for which each such expenditure was made and the value of the consideration if less than the total amount of the expenditure.

(G) The cumulative amount of expenditures to such person.

(6) A list of all the filing officers with whom the committee filed its most recent campaign statement.

SEC. 17. Section 84204 of the Government Code is repealed.

SEC. 18. Section 84204 is added to the Government Code, to read:

84204. (a) A candidate or committee that makes a late independent expenditure, as defined in Section 82036.5, shall report the late independent expenditure by mailgram, telegram, guaranteed overnight mail through the United States Postal Service or personal delivery within 24 hours of the time it is made. A late independent expenditure shall be reported on subsequent campaign statements without regard to reports filed pursuant to this section.

(b) A candidate or committee that makes a late independent expenditure shall report its full name and street address, as well as the name, office, and district of the candidate if the report is related to a candidate, or if the report is related to a measure, the number or letter of the measure, the jurisdiction in which the measure is to be voted upon, and the amount and the date, as well as a description of goods of services for which the late independent expenditure was made.

(c) A candidate or committee that makes a late independent expenditure shall file a late independent expenditure report in the places where it would be required to file campaign statements under this article as if it were formed or existing primarily to support or

oppose the candidate or measure for or against which it is making the late independent expenditure.

(d) A report filed pursuant to this section shall be in addition to any other campaign statement required to be filed by this article.

SEC. 20. Section 84205 of the Government Code is repealed.

SEC. 21. Section 84205 is added to the Government Code, to read:

84205. The commission may by regulation or written advice permit candidates and committees to file campaign statements combining statements and reports required to be filed by this title.

SEC. 22. Section 84206 of the Government Code is repealed.

SEC. 23. Section 84206 is added to the Government Code, to read:

84206. (a) The commission shall provide by regulation for a short form for filing reports required by this article for candidates or officeholders who receive contributions of less than five hundred dollars ($500), and who make expenditures of less than five hundred dollars ($500), in a calendar year.

(b) For the purposes of this section, in calculating whether five hundred dollars ($500) in expenditures have been made, payments for a filing fee or for a statement of qualification shall not be included if these payments have been made from the candidate's personal funds.

SEC. 24. Section 84207 of the Government Code is repealed.

SEC. 25. Section 84208 of the Government Code is repealed.

SEC. 26. Section 84210 of the Government Code is repealed.

SEC. 26.5. Section 84212 of the Government Code is amended to read:

84212. The forms promulgated by the commission for disclosure of the information required by this chapter shall provide for the reporting of loans and similar transactions in a manner that does not result in substantial overstatement or understatement of total contributions and expenditures.

SEC. 27. Section 84215 of the Government Code is amended to read:

84215. All candidates, elected officers, committees and proponents of state ballot measures except as provided in subdivision (e) shall file two copies of the campaign statements required by Section 84200 with the clerk of the county in which they are domiciled. A committee is domiciled at the address listed on its campaign statement unless it is domiciled outside California in which case its domicile shall be deemed to be Los Angeles County for the purpose of this section. In addition, campaign statements shall be filed at the following places:

(a) Statewide elected officers, candidates for such offices, Supreme Court Justices, their controlled committees, committees formed or existing primarily to support or oppose these candidates, elected officers, Supreme Court Justices, or statewide measures, and all state general purpose committees and filers not specified in subdivisions (b) through (e) below:

(1) The original and one copy with the Secretary of State.

(2) Two copies with the Registrar-Recorder of Los Angeles County.

(3) Two copies with the Registrar of Voters of the City and County of San Francisco.

(b) Members of the Legislature or Board of Equalization, court of appeal justices, superior court judges, candidates for those offices, their controlled committees and committees formed or existing primarily to support or oppose these candidates or officeholders:

(1) The original and one copy with the Secretary of State.

(2) Two copies with the clerk of the county with the largest number of registered voters in the districts affected.

(c) Elected officers in jurisdictions other than legislative districts, Board of Equalization districts or appellate court districts which contain parts of two or more counties, candidates for these offices, their controlled committees and committees formed or existing primarily to support or oppose candidates or measures in one of these jurisdictions shall file the original and one copy with the clerk of the county with the largest number of registered voters in the jurisdiction.

(d) County elected officers, municipal court judges, candidates for such offices, their controlled committees and county general purpose committees shall file the original and one copy with the clerk of the county.

(e) City elected officers, candidates for city office, their controlled committees and city general purpose committees shall file the original and one copy with the clerk of the city. These elected officers, candidates, and committees need not file with the clerk of the county in which they are domiciled.

(f) Notwithstanding the above, no committee, candidate, or elected officer shall be required to file more than the original and one copy, or two copies, of a campaign statement with any one county or city clerk or with the Secretary of State.

(g) If a committee is required to file campaign statements required by Section 84200 or 84200.5 in places designated in subdivisions (d) and (e), it shall continue to file these statements in those places, in addition to any other places required by this title, until the end of the calendar year.

SEC. 27.5. Section 84215 of the Government Code is amended to read:

84215. All candidates, elected officers, committees and proponents of state ballot measures except as provided in subdivision (e) shall file two copies of the campaign statements required by Section 84200 with the clerk of the county in which they are domiciled. A committee is domiciled at the address listed on its campaign statement unless it is domiciled outside California in which case its domicile shall be deemed to be Los Angeles County for the purpose of this section. In addition, campaign statements shall be filed at the following places:

(a) Statewide elected officers, candidates for these offices,

Supreme Court Justices, their controlled committees, committees formed or existing primarily to support or oppose these candidates, elected officers, or Supreme Court Justices, statewide measures, and all other committees and filers not specified in subdivisions (b) through (e) below:

(1) The original and one copy with the Secretary of State.

(2) Two copies with the Registrar-Recorder of Los Angeles County.

(3) Two copies with the Registrar of Voters of the City and County of San Francisco.

(b) Members of the Legislature or Board of Equalization, court of appeal justices, superior court judges, candidates for those offices, their controlled committees and committees formed or existing primarily to support or oppose such candidates or officeholders:

(1) The original and one copy with the Secretary of State.

(2) Two copies with the clerk of the county with the largest number of registered voters in the districts affected.

(c) Elected officers in jurisdictions other than legislative districts, Board of Equalization districts or appellate court districts which contain parts of two or more counties, candidates for these offices, their controlled committees and committees formed or existing primarily to support or oppose candidates, measures or the qualification of local measures to be voted upon in one such jurisdiction shall file the original and one copy with the clerk of the county with the largest number of registered voters in the jurisdiction.

(d) County elected officers, municipal court judges, candidates for these offices, their controlled committees and committees formed or existing primarily to support or oppose candidates, measures or the qualification of local measures to be voted upon in any number of jurisdictions within one county, other than those specified in subdivision (e), shall file the original and one copy with the clerk of the county.

(e) City elected officers, candidates for city office, their controlled committees and committees formed or existing primarily to support or oppose candidates , measures or the qualification of local measures to be voted upon in one city shall file the original and one copy with the clerk of the city. These elected officers, candidates, and committees need not file with the clerk of the county in which they are domiciled.

(f) Notwithstanding the above, no committee, candidate, or elected officer shall be required to file more than the original and one copy, or two copies, of a campaign statement with any one county or city clerk or with the Secretary of State.

(g) If a committee is required to file campaign statements required by Section 84200 in places designated in subdivisions (d) and (e), it shall continue to file the statements in these places, in addition to any other places required by this title, until the end of the calendar year.

SEC. 28. Section 90002 of the Government Code is amended to read:

90002. (a) Audits and investigations of lobbyists shall be performed on an annual basis and shall cover reports filed during a period of one year.

(b) No audit or investigation of any candidate, controlled committee, or committee primarily supporting or opposing a candidate or a measure in connection with a report or statement required by Chapter 4 of this title, shall begin until after the last date for filing the first report or statement following the general, runoff or special election for the office for which the candidate ran, or following the election at which the measure was adopted or defeated, except that audits and investigations of statewide candidates, their controlled committees, and committees primarily supporting or opposing such statewide candidates supporting candidates who were defeated in the primary election and who are not required to file statements for the general election may begin after the last date for filing the first report or statement following the primary election. When the campaign statements or reports of a candidate, controlled committee, or a committee primarily supporting or opposing a candidate are audited and investigated, the audit and investigation shall cover all campaign statements and reports filed for the primary and general or special or runoff elections and any previous campaign statement or report filed pursuant to Section 84200 or 84200.5 since the last election for that office. When the campaign statements or reports of a committee primarily supporting or opposing a measure are audited and investigated, the audit and investigation shall cover all campaign statements and reports from the beginning date of the first campaign statement filed by the committee in connection with the measure. For all other committees, the audit and investigation shall cover all campaign statements filed during the previous two calendar years.

SEC. 28.5. Section 90002 of the Government Code is amended to read:

90002. (a) Audits and investigations of lobbying firms and lobbyist employers shall be performed on an annual basis and shall cover reports filed during a period of one year.

(b) If a lobbying firm or lobbyist employer keeps a separate account for all receipts and payments for which reporting is required by this chapter, the requirement of an audit under subdivision (a) of Section 90001 shall be satisfied by an audit of that account and the supporting documentation required to be maintained by Section 86110.

(c) No audit or investigation of any candidate, controlled committee, or committee primarily supporting or opposing a candidate or a measure in connection with a report or statement required by Chapter 4 of this title, shall begin until after the last date for filing the first report or statement following the general, runoff or special election for the office for which the candidate ran, or

following the election at which the measure was adopted or defeated, except that audits and investigations of statewide candidates, their controlled committees, and committees primarily supporting or opposing such statewide candidates supporting candidates who were defeated in the primary election and who are not required to file statements for the general election may begin after the last date for filing the first report or statement following the primary election. When the campaign statements or reports of a candidate, controlled committee, or a committee primarily supporting or opposing a candidate are audited and investigated, the audit and investigation shall cover all campaign statements and reports filed for the primary and general or special or runoff elections and any previous campaign statement or report filed pursuant to Section 84200 or 84200.5 since the last election for that office. When the campaign statements or reports of a committee primarily supporting or opposing a measure are audited and investigated, the audit and investigation shall cover all campaign statements and reports from the beginning date of the first campaign statement filed by the committee in connection with the measure. For all other committees, the audit and investigation shall cover all campaign statements filed during the previous two calendar years.

SEC. 29. Section 6.5 of this bill incorporates amendments to Section 84200 of the Government Code proposed by both this bill and SB 1250. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 84200 of the Government Code, and (3) this bill is enacted after SB 1250, in which case Section 6 of this bill shall not become operative.

SEC. 30. Section 8 of the bill incorporates language which is necessary to add Section 84200.5 to the Government Code if both this bill and SB 1250 are enacted and become effective on January 1, 1986. Section 8 shall become operative only if both this bill and SB 1250 are enacted and become operative on January 1, 1986, in which case Section 7 of this bill shall not become operative.

SEC. 31. Section 27.5 of this bill incorporates amendments to Section 84215 of the Government Code proposed by both this bill and SB 1250. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 84215 of the Government Code, and (3) this bill is enacted after SB 1250, in which case Section 27 of this bill shall not become operative.

SEC. 32. Section 28.5 of this bill incorporates amendments to Section 90002 of the Government Code proposed by both this bill and SB 659. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 90002 of the Government Code, and (3) this bill is enacted after SB 659, in which case Section 28 of this bill shall not become operative.

SEC. 33. 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 1457

An act to amend Section 46013.7 of, and to add Chapter 2.5 (commencing with Section 32260) to Part 19 of, the Education Code, relating to schools, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Chapter 2.5 (commencing with Section 32260) is added to Part 19 of the Education Code, to read:

CHAPTER 2.5. INTERAGENCY SCHOOL SAFETY DEMONSTRATION ACT OF 1985

Article 1. General Provisions

32260. This chapter shall be known and may be referred to as the Interagency School Safety Demonstration Act of 1985.

32261. The Legislature hereby recognizes that all pupils enrolled in the state public schools have the inalienable right to attend classes on campuses which are safe, secure, and peaceful. The Legislature also recognizes that pupils cannot fully benefit from an educational program unless they attend school on a regular basis. In addition, the Legislature further recognizes that school crime, vandalism, truancy, and excessive absenteeism are significant problems on far too many school campuses in the state.

The Legislature hereby finds and declares that the establishment of an interagency coordination system is the most efficient and long-lasting means of resolving school and commuity problems of crime, vandalism, and truancy.

It is the intent of the Legislature in enacting this chapter to encourage school districts, county offices of education, and law enforcement agencies to develop and implement interagency strategies, programs, and activities which will improve school attendance and reduce the rates of school crime and vandalism.

32262. (a) There is hereby established the School Safety Partnership, comprised of the Superintendent of Public Instruction and the Attorney General. The duties of the partnership shall consist of all of the following:

(1) The development of programs and policies necessary to

implement the provisions of this chapter, including the policies prescribed by Section 32261.

(2) The administration of interagency safe school programs, procedures, and activities conducted pursuant to this chapter.

(3) The formulation of recommendations to be submitted as part of an annual report to the Legislature regarding the implementation of this chapter.

(4) Cooperation with other states and state and federal agencies on matters relating to school safety.

(b) As used in this chapter, the term "partnership" means the School Safety Partnership established by this section.

Article 2. Interagency Safe School Model Programs

32270. (a) From funds appropriated for that purpose, the partnership shall establish for the 1985-86 and 1986-87 school years 30 interagency safe school model programs in accordance with the requirements of this article to address the problems of school safety, truancy, and excessive absenteeism.

(b) The partnership shall select program participants from applications submitted by school districts and county offices of education. Approved applications shall include 15 elementary school districts; seven high school districts; and eight unified school districts or county offices of education, or any combination of unified school districts or county offices, to participate in the model program. In selecting program applicants, the Superintendent of Public Instruction shall ensure that the approved model programs are broadly representative of the geographic and ethnic diversity of the state.

(c) The project period for approved model programs shall be from January 1, 1986, to June 30, 1987.

(d) As used in this chapter, the term "school district" shall be construed to include county offices of education.

32271. Applications to establish interagency safe school model programs shall be jointly submitted by applicant school districts and the appropriate law enforcement agencies for that district to address local school safety topics, including, but not necessarily limited to, all of the following:

(a) The reduction of school violence and vandalism.

(b) The improvement of school attendance.

(c) The reduction of truancy rates.

(d) The reduction of school dropout rates.

(e) Other topics which impact upon school safety including, but not limited to, child abuse, substance abuse, and strategies for parental and community education programs.

32272. (a) The partnership shall establish selection criteria for the approval of applications submitted by school districts for model programs. The approved selection criteria shall include, but need not necessarily be limited to, an evaluation of all of the following:

(1) The extent to which the proposed model program addresses the specific problem areas defined in Section 32271 and identified by the applicant school district.

(2) The extent to which the applicant school district has solicited the input of education professionals, law enforcement agencies, and community representatives in the planning of the proposed model program.

(3) The ability of the applicant to effectively manage and administer the proposed model program.

(4) The extent to which the proposed model program is capable of being replicated by other school districts in the state at the conclusion of the project period.

(5) The applicant's commitment to the implementation of the proposed model program and its plan for the continuation of the program upon termination of state funding.

(b) The partnership shall provide for the selection of a model program review panel comprised of representatives from various education and law enforcement agencies.

32273. (a) The partnership shall develop guidelines for the funding of model school programs approved pursuant to this article. The adopted guidelines shall provide reimbursement to approved model programs on a quarterly basis. Reimbursement under this subdivision shall be limited to a maximum of 75 percent of the total approved level of funding for costs incurred pending the submission of an end-of-project report submitted by the model program pursuant to Section 32274. Upon receipt of the final project report, the balance of the approved level of funding shall be reimbursed to the approved model program.

(b) Each model program shall designate a participating agency as the agency responsible for the fiscal management of the model program. The designated agency shall submit quarterly financial reports to the superintendent upon forms designated by the superintendent for that purpose.

32274. Each approved model program shall submit an end-of-project report to the partnership describing the success of the model program in achieving the objectives identified in the program's application. The partnership shall evaluate the final report submitted under this section to verify the completion of the program's activities and shall conduct an onsite review of the program.

Article 3. Regional Conferences

32280. (a) The partnership shall make available to school districts, county offices of education, and law enforcement agencies, at least four regional conferences to identify exemplary programs and techniques which have been effectively utilized by public schools to reduce school crime, vandalism, truancy, and excessive absenteeism.

(b) Each regional conference shall include, but need not be limited to, information on all of the following topics:

(1) Interagency cooperation between schools and law enforcement agencies.

(2) School attendance.

(3) School safety.

(4) Citizenship education.

(5) Substance abuse.

(6) Child abuse.

(7) Parental education.

Article 4. Interagency School Safety Cadre

32290. (a) The partnership shall establish statewide interagency school safety cadre for the purpose of facilitating interagency coordination among school districts, county offices of education, and law enforcement agencies to reduce school violence and vandalism, reduce truancy rates, improve school attendance, and encourage good citizenship.

(b) The partnership shall appoint up to 50 professionals from education and law enforcement to the statewide cadre for the 1985-86 fiscal year, and up to additional 50 representatives in the 1986-87 fiscal year.

(c) The partnership may provide training to the statewide cadre representatives to enable them to initiate and maintain interagency school safety programs among school districts, county offices of education, and law enforcement agencies in each region.

Article 5. Program Evaluations and Reports

32295. The partnership shall undertake an interim evaluation of the Interagency School Safety Demonstration Act commencing January 1, 1987, and shall submit a report to the Legislature, which shall also be made available for public inspection, on or before March 30, 1987. The evaluation shall include, but not be limited to, all of the following:

(a) An evaluation of the appropriateness and effectiveness of regional conferences conducted pursuant to Article 3 (commencing with Section 32280).

(b) An evaluation of the extent to which the statewide interagency school safety cadre have been able to provide appropriate technical assistance to school districts, county offices of education, and law enforcement agencies.

(c) An evaluation of the extent to which interagency safe school model programs have succeeded in reaching and positively affecting schools and communities sponsoring the model programs by measuring all of the following:

(1) The reduction of school violence and vandalism.

(2) The improvement of school attendance.

(3) The reduction of school truancy.
(4) The reduction of school dropout rates.
(5) Other measurements impacting on school safety identified in Section 32271.

32296. The partnership shall submit a final report to the Legislature on or before January 1, 1988, which shall include specific recommendations regarding the methods and means through which interagency model programs may be replicated and disseminated on a statewide basis.

SEC. 2. Section 46013.7 of the Education Code is amended to read:

46013.7. The Superintendent of Public Instruction may authorize 30 schools in 28 school districts to continue to use the attendance accounting and reporting procedures prescribed by Section 46013 for the 1985–86 school year through the 1988–89 school year, and shall not require these districts to keep parallel attendance accounting and reporting procedures as required under existing laws otherwise applicable. Subsequent to the 1982–83 fiscal year, no school district shall be eligible to receive a revenue limit increase pursuant to Section 46013.

SEC. 3. The sum of three hundred twenty-five thousand dollars ($325,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction for the 1985–86 fiscal year for purposes of implementing Chapter 2.5 (commencing with Section 32260) of Part 19 of the Education Code.

SEC. 4. Funds appropriated for the purposes of this act shall not be included within "the total amount of money allocated for public education in California," as that term is used in Section 8880.1 of the Government Code, as added by the California State Lottery Act of 1984.

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

In order to authorize the School Safety Partnership to implement the provisions of the Interagency School Safety Demonstration Act of 1985, including the selection of interagency safe school model programs at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1458

An act relating to community colleges and making an appropriation therefor.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. The Legislature recognizes that proper evaluation of the activities, outputs, and finances of California's community colleges is dependent upon readily usable data regarding the colleges' students, employees, course offerings, student services, facilities, and expenditures. The Legislature further recognizes that the data in each of these areas either is incomplete, inadequately organized, insufficiently analyzed, inefficiently collected, or not readily accessible. To correct this situation, the Chancellor of the California Community Colleges shall do the following:

(a) Develop a comprehensive taxonomy of programs and services that will bring uniformity to the reporting of workload and expenditure data across college activities.

(b) Conduct a feasibility study to reduce duplicate reporting by colleges to the chancellor's office and streamline reporting structures.

(c) Create readily accessible historical summary files on students, employees, courses, finances, and categorical programs from existing dispersed and unintegrated files.

(d) Establish annual publication of a Community College Historical Profile based upon the information created through the activity described in (c) above.

(e) Establish ad hoc working committees responsible for developing short-term and long-range recommendations on appropriate workload measures, output measures, and reporting requirements in the areas of instruction, student services, facilities, institutional support, staff, and finances.

(f) Conduct regional workshops for community college administrators to improve the consistency, accuracy, and uniformity of their data reporting.

SEC. 2. The sum of three hundred sixty thousand dollars ($360,000) is hereby appropriated from the General Fund to the Chancellor of the California Community Colleges for purposes of this act.

CHAPTER 1459

An act to amend Sections 17073 and 17240 of the Revenue and Taxation Code, relating to income taxation, to take effect immediately, tax levy.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 17073 of the Revenue and Taxation Code is amended to read:

17073. Taxable income shall be defined by Section 63 of the Internal Revenue Code, except as follows:

(a) The deduction for direct charitable deductions, provided by Section 63(b)(1)(C) of the Internal Revenue Code, shall apply only to contributions made after December 31, 1983, and before January 1, 1987. Subject to the limitation in subdivision (d), for contributions made after December 31, 1986, and before January 1, 1990, the total amount allowable under Section 170 of the Internal Revenue Code, as modified by Section 17240, shall be deductible under this section and shall not be treated as an itemized deduction.

(b) For purposes of this part, the term "zero bracket amount", defined by Section 63(d) of the Internal Revenue Code, means an amount equal to the maximum amount of taxable income on which no tax is imposed pursuant to Section 17041.

(c) The unused zero bracket computation provided by Section 63(e) of the Internal Revenue Code shall apply only to a married individual filing a separate return where either spouse itemized deductions.

(d) The amendments to subdivision (a) made by the act adding this subdivision shall become operative only if the Internal Revenue Code is amended to extend the deduction for direct charitable contributions provided by Section 63 (b) (1) (C) and Section 170 (i) thereof to contributions made after December 31, 1986. In that event, the amendments to subdivision (a) shall apply only for the same period or with respect to the same contributions as provided by the Internal Revenue Code, except that the amendments shall not apply in any case to contributions made after December 31, 1989.

SEC. 2. Section 17240 of the Revenue and Taxation Code, as amended by Chapter 159 of the Statutes of 1985, 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, or made after December 31, 1986, and before January 1, 1990.

(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).

(e) The amendments to paragraph (3) of subdivision (a) made by the act adding this subdivision shall become operative only if the Internal Revenue Code is amended to extend the deduction for direct charitable contributions provided by Section 63 (b) (1) (C) and Section 170 (i) thereof to contributions made after December 31, 1986. In that event, the amendments to paragraph (3) of subdivision (a) shall apply only for the same period or with respect to the same contributions as provided by the Internal Revenue Code, except that the amendments shall not apply in any case to contributions made after December 31, 1989.

SEC. 3. Section 17240 of the Revenue and Taxation Code, as amended by Chapter 159 of the Statutes of 1985, 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, or made after December 31, 1986, and before January 1, 1990.

(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, 1987, and shall be subject to the reduction under Section 170(e)(1) of the Internal Revenue Code.

(2) (A) In the case of artistic property, as defined in this paragraph, the amount taken into account under Section 170(a) of the Internal Revenue Code shall be reduced by the amount of gain which would have been included in taxable income, if the property had been sold by the taxpayer at its fair market value (determined at the time of contribution).

(B) For the purposes of this paragraph, artistic property created by the personal efforts of the taxpayer shall be treated as a capital asset.

(C) For the purposes of this paragraph, artistic property is property created by the personal efforts of the taxpayer if all of the following conditions are met:

(i) At least 20 percent of the taxpayer's adjusted gross income for the taxable year or at least 50 percent of the taxpayer's adjusted gross income for any of the three prior taxable years is derived from the sale of artistic property created by the personal efforts of the taxpayer.

(ii) The fair market value of the artistic property is established by independent appraisal.

(iii) The recipient of the artistic property is an organization exempt from tax pursuant to Section 23701d, or the State of California or a political subdivision or agency thereof, including the Regents of the University of California and any city organized under a freeholder's charter.

(D) For the purposes of this paragraph, "artistic property" includes musical, literary, and artistic creations, but does not include letters, memoranda, or similar property which was written, prepared, or produced by, or for, the taxpayer while holding an office under the government of the United States or of any state or political subdivision thereof, if the writing, preparation, or production was related to, or arose out of, the performance of the duties of the office.

(E) This paragraph shall apply in the computation of taxes for taxable years beginning after December 31, 1986.

(3) 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).

(e) The amendments to paragraph (3) of subdivision (a) made by the act adding this subdivision shall become operative only if the Internal Revenue Code is amended to extend the deduction for direct charitable contributions provided by Section 63 (b) (1) (C) and Section 170 (i) thereof to contributions made after December 31, 1986. In that event, the amendments to paragraph (3) of subdivision (a) shall apply only for the same period or with respect to the same contributions as provided by the Internal Revenue Code, except that the amendments shall not apply in any case to contributions made after December 31, 1989.

SEC. 4. Section 17240 of the Revenue and Taxation Code, as amended by Chapter 159 of the Statutes of 1985, 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, or made after December 31, 1986, and before January 1, 1990.

(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 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(b)(1)(B) or 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) or (B) of the Internal Revenue Code) exceed the amount allowed by Section 17241 (computed without regard to the taxpayer's charitable contributions).

(e) For purposes of Section 170(c)(2) of the Internal Revenue Code, the term "educational purposes" includes the providing of care of children away from their home if both of the following are satisfied:

(1) Substantially all the care provided by the organization is for purposes of enabling individuals to be gainfully employed.

(2) The services provided by the organization are available to the general public.

(f) The amendments to paragraph (3) of subdivision (a) made by the act adding this subdivision shall become operative only if the Internal Revenue Code is amended to extend the deduction for direct charitable contributions provided by Section 63 (b) (1) (C) and Section 170 (i) thereof to contributions made after December 31, 1986. In that event, the amendments to paragraph (3) of subdivision (a) shall apply only for the same period or with respect to the same contributions as provided by the Internal Revenue Code, except that the amendments shall not apply in any case to contributions made after December 31, 1989.

SEC. 5. Section 17240 of the Revenue and Taxation Code, as amended by Chapter 159 of the Statutes of 1985, 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, or made after December 31, 1986, and before January 1, 1990.

(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 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, 1987, and shall be subject to the reduction under Section 170(e)(1) of the Internal Revenue Code.

(2) (A) In the case of artistic property, as defined in this paragraph, the amount taken into account under Section 170(a) of the Internal Revenue Code shall be reduced by the amount of gain which would have been included in taxable income, if the property had been sold by the taxpayer at its fair market value (determined at the time of contribution).

(B) For the purposes of this paragraph, artistic property created by the personal efforts of the taxpayer shall be treated as a capital asset.

(C) For the purposes of this paragraph, artistic property is property created by the personal efforts of the taxpayer if all of the following conditions are met:

(i) At least 20 percent of the taxpayer's adjusted gross income for the taxable year or at least 50 percent of the taxpayer's adjusted gross income for any of the three prior taxable years is derived from the sale of artistic property created by the personal efforts of the taxpayer.

(ii) The fair market value of the artistic property is established by independent appraisal.

(iii) The recipient of the artistic property is an organization exempt from tax pursuant to Section 23701d, or the State of California or a political subdivision or agency thereof, including the Regents of the University of California and any city organized under a freeholder's charter.

(D) For the purposes of this paragraph, "artistic property" includes musical, literary, and artistic creations, but does not include letters, memoranda, or similar property which was written, prepared, or produced by, or for, the taxpayer while holding an office under the government of the United States or of any state or political subdivision thereof, if the writing, preparation, or production was related to, or arose out of, the performance of the duties of the office.

(E) This paragraph shall apply in the computation of taxes for taxable years beginning after December 31, 1986.

(3) 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(b)(1)(B) or 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) or (B) of the Internal Revenue Code) exceed the amount allowed by Section 17241 (computed without regard to the taxpayer's charitable contributions).

(e) For purposes of Section 170(c)(2) of the Internal Revenue Code, the term "educational purposes" includes the providing of care of children away from their home if both of the following are satisfied:

(1) Substantially all the care provided by the organization is for

purposes of enabling individuals to be gainfully employed.

(2) The services provided by the organization are available to the general public.

(f) The amendments to paragraph (3) of subdivision (a) made by the act adding this subdivision shall become operative only if the Internal Revenue Code is amended to extend the deduction for direct charitable contributions provided by Section 63 (b) (1) (C) and Section 170 (i) thereof to contributions made after December 31, 1986. In that event, the amendments to paragraph (3) of subdivision (a) shall apply only for the same period or with respect to the same contributions as provided by the Internal Revenue Code, except that the amendments shall not apply in any case to contributions made after December 31, 1989.

SEC. 6. (a) Section 3 of this bill incorporates amendments to Section 17240 of the Revenue and Taxation Code proposed by both this bill and AB 2091. 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 17240 of the Revenue and Taxation Code, and (3) AB 66 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 2091, in which case Section 17240 of the Revenue and Taxation Code, as amended by AB 2091, shall remain operative only until the operative date of this bill, at which time Section 3 of this bill shall become operative, and Sections 2, 4, and 5 of this bill shall not become operative

(b) Section 4 of this bill incorporates amendments to Section 17240 of the Revenue and Taxation Code proposed by both this bill and AB 66. 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 17240 of the Revenue and Taxation Code, (3) AB 2091 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 66 in which case Section 17240 of the Revenue and Taxation Code, as amended by AB 66, shall remain operative only until the operative date of this bill, at which time Section 4 of this bill shall become operative, and Sections 2, 3, and 5 of this bill shall not become operative.

(c) Section 5 of this bill incorporates amendments to Section 17240 of the Revenue and Taxation Code proposed by this bill, AB 66, and AB 2091. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1986, (2) all three bills amend Section 17240 of the Revenue and Taxation Code, (3) this bill is enacted after AB 66 and AB 2091, in which case Section 17240 of the Revenue and Taxation Code, as amended by AB 66 and AB 2091, shall remain operative only until the operative date of this bill, at which time Section 5 of this bill shall become operative, and Sections 2, 3, and 4 of this bill shall not become operative.

SEC. 7. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 1460

An act to amend Sections 18510, 18511, and 18512 of, to amend the heading of Article 6.5 (commencing with Section 18510) of Chapter 17 of Part 10 of Division 2 of, and to repeal Sections 18513 and 18514 of, the Revenue and Taxation Code, relating to aging, and making an appropriation therefor.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. The heading of Article 6.5 (commencing with Section 18510) of Chapter 17 of Part 10 of Division 2 of the Revenue and Taxation Code is amended to read:

Article 6.5. Designations to the California Fund for Senior Citizens

SEC. 2. Section 18510 of the Revenue and Taxation Code, as amended by Chapter 159 of the Statutes of 1985, 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 Fund for Senior Citizens 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 Fund for Senior Citizens

" 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. 2.5. Section 18510 of the Revenue and Taxation Code, as amended by Chapter 159 of the Statutes of 1985, 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 Fund for Senior Citizens 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 Fund for Senior Citizens" 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.

(f) A deduction shall be allowed under Article 6 (commencing with Section 17201) of Chapter 3 for any contribution made pursuant to subdivision (a).

SEC. 3. Section 18511 of the Revenue and Taxation Code is amended to read:

18511. There is hereby established in the State Treasury the California Fund for Senior Citizens to receive contributions made pursuant to Section 18510.

The Franchise Tax Board shall notify the Controller of both the amount of money paid by taxpayers in excess of their tax liability and the amount of refund money which taxpayers have designated pursuant to Section 18510 to be transferred to the California Seniors' Fund. The Controller shall transfer from the Personal Income Tax Fund to the California Fund for Senior Citizens an amount not in excess of the sum of the amounts designated by individuals pursuant to Section 18510 for payment into that fund.

SEC. 4. Section 18512 of the Revenue and Taxation Code is amended to read:

18512. Notwithstanding Section 13340 of the Government Code, all money transferred to the California Fund for Senior Citizens pursuant to Section 18511 is hereby continuously appropriated, without regard to fiscal years, for allocation as follows:

(a) To the Franchise Tax Board for reimbursement of all costs incurred by the Franchise Tax Board in connection with its duties under this article.

(b) To the California Commission on Aging for allocation as follows:

(1) To the California Senior Legislature for the 1984 calendar year, and each succeeding calendar year thereafter, the sum of seventy-five thousand dollars ($75,000), or the balance of the fund if less than that amount remains in the fund, for the conduct of sessions of the California Senior Legislature.

(2) The balance, if any, but not to exceed two hundred fifty thousand dollars ($250,000), to the California Senior Legislature in any calendar year for its ongoing activities on behalf of older persons.

(3) The balance, if any, to the commission for senior citizen direct service programs through contracts with the Department of Aging and Long-Term Care.

SEC. 5. Section 18513 of the Revenue and Taxation Code is repealed.

SEC. 6. Section 18514 of the Revenue and Taxation Code is repealed.

SEC. 7. Section 2.5 of this bill incorporates amendments to Section 18510 of the Revenue and Taxation Code proposed by both this bill and AB 47. 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 18510 of the Revenue and Taxation Code, and (3) this bill is enacted after AB 47, in which case Section 18510 of the Revenue and Taxation Code, as amended by AB 47, shall remain operative only until the operative date of this bill, at which time Section 2.5 of this bill shall become operative, and Section 2 of this bill shall not become operative.

CHAPTER 1461

An act to amend Sections 17024.5, 17039, 17042, 17052.6, 17052.9, 17054, 17063, 17137, 17139, 17240, 17250, 17250.5, 17252.5, 17254, 17262, 17272, 17280, 17507, 17800, 18040, 18169, 18402.9, 18551.1, 18557, 18586, 18602, 18681, 18684, 18685.07, 18689, 18696, 18699, 18802.1, 18803, 19267, 19269, 19289.5, 19411, 19419, 23051.5, 23732, 23735, 24307, 24344.5, 24349, 24354.2, 24356.2, 24357.7, 24371.5, 24373.5, 24383, 24431, 24442, 24457, 24466, 24483.5, 24491, 24491.1, 24519, 24561, 24562, 24651, 24667, 24684, 24941, 24942, 24998, 25663, 25901c, 25934, and 25965 of, to add Sections 17020.5, 17020.6, 17020.7, 17020.8, 17090, 17091, 17134, 17136, 17205, 17224, 17255, 17270.5, 17288, 17558, 17737, 17750, 18042, 18043, 18402.8, 18681.7, 18681.8, 18681.9, 18682, 18684.7, 18684.8, 18802.6, 18803.1, 18882, 19271, 19275, 23043.5, 23045, 23046, 23047, 23704.4, 23705, 23706, 24275, 24308, 24349.1, 24445.5, 24454.2, 24493, 24615, 24686.2, 24686.4, 24688, 24689, 24690, and 24966 to, to add Chapter 11.7 (commencing with Section 24585) to Part 11 of Division 2 of, to repeal and add Sections 17069, 18681.1, 24310, 24414, 24427, and 24609 of, to repeal Sections 17142, 17324, 17502, 17508, 18170, 18174, 18415, 18435, 18556, 18685.05, 18685.8, 18685.9, 19290, 24428, 24429, 24430, 24432, 24433, and 24488 of, and to repeal and add Sections 17053.7 and 24330 of, the Revenue and Taxation Code, to amend Section 927 of, to add Section 328 to, and to repeal Section 927.5 of, the Unemployment Insurance Code, and to repeal Section 6 of Chapter 1182 of the Statutes of 1979, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor October 1, 1985 Filed with Secretary of State October 1, 1985]

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

SECTION 1. Section 17020.5 is added to the Revenue and Taxation Code, to read:

17020.5. For purposes of this part, in determining the amount of gain or loss (or deemed gain or loss) with respect to any property, Section 7701(g) of the Internal Revenue Code, relating to nonrecourse indebtedness, shall apply.

SEC. 2. Section 17020.6 is added to the Revenue and Taxation Code, to read:

17020.6. For purposes of this part, the term "life insurance contract" has the same meaning given that term by Section 7702 of the Internal Revenue Code.

SEC. 3. Section 17020.7 is added to the Revenue and Taxation Code, to read:

17020.7. The determination of whether there is a collective bargaining agreement shall be made in accordance with Section 7701(a)(46) of the Internal Revenue Code.

SEC. 4. Section 17020.8 is added to the Revenue and Taxation

Code, to read:

17020.8. The treatment of certain contracts for providing services, etc., shall be determined in accordance with Section 7701(e) of the Internal Revenue Code.

SEC. 5. Section 17024.5 of the Revenue and Taxation Code is amended to read:

17024.5. (a) (1) Unless otherwise specifically provided, the term "Internal Revenue Code," for purposes of this part, means Title 26 of the United States Code, including all amendments thereto as enacted on the specified date for the applicable taxable year as follows:

Taxable Year	Specified Date of Internal Revenue Code Sections
(A) For taxable years beginning on or after January 1, 1983, and on or before December 31, 1983	January 15, 1983
(B) For taxable years beginning on or after January 1, 1984, and on or before December 31, 1984	January 1, 1984
(C) (i) For taxable years beginning on or after January 1, 1985	January 1, 1985

(ii) The provisions contained in Sections 41–44, inclusive, and 172 of the Tax Reform Act of 1984 (Public Law 98-369), relating to treatment of debt instruments, shall not be applicable.

(2) Unless otherwise specifically provided, the following shall apply:

(A) Any provision of the Internal Revenue Code which becomes operative on or after the specified date shall also become operative on the same date for purposes of this part.

(B) Any provision of the Internal Revenue Code which becomes inoperative on or after the specified date, shall also become inoperative on the same date for purposes of this part.

(b) Unless otherwise specifically provided, when applying any section of the Internal Revenue Code for purposes of this part, any provision therein relating to any of the following shall not be applicable for purposes of this part:

(1) An electing small business corporation, as defined in Section 1361(b) of the Internal Revenue Code.

(2) Domestic international sales corporations (DISC), as defined in Section 992(a) of the Internal Revenue Code.

(3) A personal holding company, as defined in Section 542 of the Internal Revenue Code.

(4) A foreign personal holding company, as defined in Section 552 of the Internal Revenue Code.

(5) A foreign investment company, as defined in Section 1246(b) of the Internal Revenue Code.

(6) A foreign trust, as defined in Section 679 of the Internal Revenue Code.

(7) Foreign taxes and foreign tax credits.

(8) Section 911 of the Internal Revenue Code, relating to United States citizens living abroad.

(9) A foreign corporation, except that Section 367 of the Internal Revenue Code shall be applicable.

(10) A separate tax on lump-sum distributions imposed by Section 402(e) of the Internal Revenue Code.

(11) Credits and credit carryovers.

(12) Nonresident aliens.

(13) "Short-term" and "long-term" capital gain or loss, or the deduction for capital gains allowed by Section 1202 of the Internal Revenue Code (see Section 18162.5 for amounts includable in income for purposes of this part).

(14) Section 179 of the Internal Revenue Code property.

(15) Deduction for personal exemptions, as provided in Section 151 of the Internal Revenue Code.

(16) The deduction for the two-earner married couples as allowed by Section 221 of the Internal Revenue Code.

(17) The tax on generation-skipping transfers imposed by Section 2601 of the Internal Revenue Code.

(18) The tax, relating to estates, imposed by Section 2001 or 2101 of the Internal Revenue Code.

(c) When applying the Internal Revenue Code for purposes of this part, any reference to regulations prescribed by "the secretary" shall not be applicable if the Franchise Tax Board has adopted and issued regulations. In the absence of regulations issued by the Franchise Tax Board, regulations issued by "the secretary" in effect as of the specified effective date of the Internal Revenue Code sections referred to in subdivision (a) shall be applicable to the extent that they do not conflict with this part.

(d) Whenever this part allows a taxpayer to make an election, the following rules shall apply:

(1) A proper election filed in accordance with the Internal Revenue Code or regulations issued by "the secretary" shall be deemed to be a proper election for purposes of this part, unless otherwise provided in this part or in regulations issued by the Franchise Tax Board.

(2) A copy of that election shall be furnished to the Franchise Tax Board upon request.

(3) To obtain treatment other than that elected for federal purposes, a separate election shall be filed with the Franchise Tax Board.

(e) Whenever this part allows or requires a taxpayer to file an application or seek consent, the rules set forth in subdivision (d) shall be applicable with respect to any such application or consent.

(f) When applying the Internal Revenue Code for purposes of determining the statute of limitations under this part, any reference to a period of three years shall be modified to read four years for

purposes of this part.

(g) Unless otherwise specifically provided, when applying any section of the Internal Revenue Code for purposes of this part, any reference to the "secretary" shall mean the "Franchise Tax Board."

(h) Unless otherwise specifically provided, when applying any section of the Internal Revenue Code for purposes of this part, any reference to "adjusted gross income" (AGI) shall mean the amount computed as adjusted gross income, in accordance with Section 17072, on the California income tax return for the same taxable year.

SEC. 5.5. Section 17039 of the Revenue and Taxation Code is amended to read:

17039. (a) Notwithstanding any provision in this part to the contrary, for the purposes of computing tax credits, the term "net tax" means the tax imposed under either Section 17041 or 17048 less the credits allowed by Section 17054 (relating to personal exemption credits) and Section 17054.5 (relating to student credits). Credits shall be allowed against "net tax" in the following order:

(1) Credits which do not contain carryover or refundable provisions, except those described in paragraphs (4) and (5).

(2) Credits which contain carryover provisions but do not contain refundable provisions.

(3) Credits which contain both carryover and refundable provisions.

(4) Credits for taxes paid to other states.

(5) The low-income tax credit allowed by Section 17069.

(6) Credits which contain refundable provisions but do not contain carryover provisions.

For the purposes of paragraphs (2), (3), and (6), the order within each paragraph shall be determined by the Franchise Tax Board.

(b) Notwithstanding the provisions of Sections 17053.5, 17061, and 18551.1, the credits provided in those sections shall be allowed in the order provided in paragraph (6) of subdivision (a).

(c) This section shall be applied in the computation of taxes for taxable years beginning on and after January 1, 1981.

SEC. 6. Section 17042 of the Revenue and Taxation Code is amended to read:

17042. (a) For purposes of this part, an individual shall be considered a head of a household if he or she qualifies under Section 2(b) and (c) of the Internal Revenue Code.

(b) The period of time described in Section 2(b)(1)(A) of the Internal Revenue Code shall be more than 219 days.

(c) The special provisions of Section 17042.5 relating to joint custody head of household shall be applicable.

SEC. 7. Section 17052.6 of the Revenue and Taxation Code is amended to read:

17052.6. There shall be allowed as a credit against the "net tax" an amount determined in accordance with Section 21 of the Internal Revenue Code, except that the amount of the credit shall be limited as follows:

(1) To 10 percent of the allowable federal credit if the taxpayer's adjusted gross income for the taxable year is twenty thousand dollars ($20,000) or less.

(2) To 5 percent of the allowable federal credit if the taxpayer's adjusted gross income for the taxable year exceeds twenty thousand dollars ($20,000).

SEC. 8. Section 17052.9 of the Revenue and Taxation Code is amended to read:

17052.9. (a) There shall be allowed as a credit against the "net tax" imposed by this part for the taxable year an amount determined under subdivision (b) or (c).

(b) There shall be allowed as a credit an amount determined in accordance with Section 22 of the Internal Revenue Code, except—

(1) The amount of the credit shall be limited to 50 percent of the amount computed under Section 22 of the Internal Revenue Code.

(2) The credit shall not be allowed to any nonresident or part-year resident.

(c) (1) There shall be allowed as a credit an amount equal to 10 percent of the amount received by that individual as retirement income (as defined in paragraph (4) and as limited by paragraphs (5), (6), and (7)).

(2) In the case of a married individual, this subdivision shall apply to the taxable year only if both spouses so elect and no credit shall be allowed to either spouse under subdivision (a).

(3) A credit shall not be allowed under this subdivision, unless all of the following are met:

(A) An individual—

(i) Has not attained age 65 before close of the taxable year, and

(ii) Has income from pensions and annuities under a public retirement system (as defined in subparagraph (A) of paragraph (9)), and

(iii) Was allowed a credit under this section for a taxable year beginning prior to January 1, 1984.

(B) In the case of a married couple, the spouse who is under age 65 meets all of the requirements in subparagraph (A).

(C) The individual is a resident of this state (both spouses, in case of a joint return) for the entire taxable year.

(4) For purposes of this subdivision, the term "retirement income" means—

(A) In the case of an individual who has attained age 65 before the close of the taxable year, income from—

(i) Pensions and annuities (including, in the case of an individual who is, or has been, an employee within the meaning of Section 401(c)(1) of the Internal Revenue Code, distributions by a trust described in Section 401(a) of the Internal Revenue Code, which is exempt from tax under Section 501(a) of the Internal Revenue Code).

(ii) Interest,

(iii) Rents,

(iv) Dividends, and

(v) An individual retirement account described in Section 408(a) of the Internal Revenue Code, or an individual retirement annuity described in Section 408(b) of the Internal Revenue Code; or

(B) In the case of an individual who has not attained age 65 before the close of the taxable year and who performed the services giving rise to the pension or annuity (or is the spouse of the individual who performed the services), income from pensions and annuities under a public retirement system (as defined in subparagraph (A) of paragraph (9)),

to the extent included in gross income without reference to this subdivision, but only to the extent that income does not represent compensation for personal services rendered during the taxable year.

(5) For purposes of this subdivision, the amount of retirement income shall not exceed five thousand dollars ($5,000) less—

(A) An amount equal to the sum of the amounts received by the individual (or, in the case of a joint return, by either spouse) as a pension or annuity—

(i) Under Title II of the Social Security Act,

(ii) Under the Railroad Retirement Act of 1974, or

(iii) Otherwise excluded from gross income.

No reduction shall be made under this subparagraph for any amount excluded from gross income under Section 72 of the Internal Revenue Code (relating to annuities), Section 101 of the Internal Revenue Code (relating to life insurance proceeds), Section 104 of the Internal Revenue Code (relating to compensation for injuries or sickness), Section 105 of the Internal Revenue Code (relating to accident and health plans), Section 120 of the Internal Revenue Code (relating to qualified group legal services plan), Section 402 of the Internal Revenue Code (relating to a beneficiary of an employees' trust), or Section 403 of the Internal Revenue Code (relating to employee annuities).

(B) In the case of any individual who has not attained age 72 before the close of the taxable year—

(i) If that individual has not attained age 62 before the close of the taxable year, any amount of earned income (as defined in subparagraph (B) of paragraph (9) in excess of nine hundred dollars ($900) received by that individual in the taxable year, or

(ii) If that individual has attained age 62 before the close of the taxable year, the sum of one-half the amount of earned income received by that individual in the taxable year in excess of one thousand two hundred dollars ($1,200), but not in excess of one thousand seven hundred dollars ($1,700), and the amount of earned income so received in excess of one thousand seven hundred dollars ($1,700).

(6) In the case of a joint return, paragraph (5) shall be applied by substituting "seven thousand five hundred dollars ($7,500)" for "five thousand dollars ($5,000)." The seven thousand five hundred dollars

($7,500) provided by the preceding sentence shall be divided between the spouses in those amounts as may be agreed on by them, except that not more than five thousand dollars ($5,000) may be assigned to either spouse.

(7) In the case of a married individual filing a separate return, paragraph (5) shall be applied by substituting "three thousand seven hundred fifty dollars ($3,750)" for "five thousand dollars ($5,000)."

(8) In the case of a joint return, this subdivision shall be applied without regard to community property laws.

(9) For purposes of this subdivision—

(A) "Public retirement system" means a pension, annuity, retirement, or similar fund or system established by the United States, a state, a possession of the United States, any political subdivision of any of the foregoing, or the District of Columbia.

(B) "Earned income" has the meaning assigned to that term by Section 911(d)(2) of the Internal Revenue Code, except that such term does not include any amount received as a pension or annuity.

(10) The provisions of this subdivision shall not be applicable to taxable years beginning on or after January 1, 1994.

SEC. 9. Section 17053.7 of the Revenue and Taxation Code, as amended by Chapter 1102 of the Statutes of 1983, is repealed.

SEC. 9.5. Section 17053.7 is added to the Revenue and Taxation Code, to read:

17053.7. (a) There shall be allowed as a credit against the "net tax" (as defined by Section 17039) an amount equal to 10 percent of the amount of wages paid to each employee who is certified by the Employment Development Department to meet the requirements of Section 328 of the Unemployment Insurance Code.

The credit under this section shall not apply to an individual unless, on or before the day on which that individual begins work for the employer, the employer:

(1) Has received a certification from the Employment Development Department, or

(2) Has requested in writing that certification from the Employment Development Department.

For the purposes of this subdivision, if on or before the day on which the individual begins work for the employer, the individual has received from the Employment Development Department a written preliminary determination that he or she is a member of a targeted group, then the requirement of paragraph (1) or (2) shall be applicable before the fifth day on which the individual begins work for the employer.

(b) The credit under this section shall not apply to wages paid in excess of three thousand dollars ($3,000) during a taxable year by a taxpayer to the same individual. With respect to each qualified employee, the aggregate credit under this section shall not exceed six hundred dollars ($600).

(c) The credit under this section shall not apply to wages paid to an individual:

(1) Who is a dependent, as described in Section 17056, of the taxpayer; or

(2) Who, if the taxpayer is an estate or trust, is a grantor, beneficiary, or fiduciary of the estate or trust, or is an individual who bears any of the relationships described in paragraphs (1) to (8), inclusive, of Section 152(a) of the Internal Revenue Code to a grantor, beneficiary, or fiduciary of the estate or trust; or

(3) Who is a dependent (as described in subdivision (i) of Section 17056) of the taxpayer, or, if the taxpayer is an estate or trust, of a grantor, beneficiary, or fiduciary of the estate or trust.

(d) The credit under this section shall not apply to wages paid to an individual if, prior to the hiring date of that individual, that individual has been employed by the employer at any time during which he or she was not certified by the Employment Development Department to meet the requirements of Section 328 of the Unemployment Insurance Code.

(e) If the certification of an employment has been revoked pursuant to subdivision (c) of Section 328 of the Unemployment Insurance Code, the credit under this section shall not apply to wages paid by the employer after the date on which notice of revocation is received by the employer.

(f) The credit under this section shall be in addition to any deduction under this part to which the taxpayer may be entitled, if any.

(g) The credit provided by this section shall be applied to wages paid to each qualifying employee during the 24-month period beginning on the date such employee begins working for the taxpayer.

(h) The term "wages" shall not include any amount paid or incurred to an individual who begins work for the employer after December 31, 1985.

(i) (1) A taxpayer may elect to have this section not apply for any taxable year.

(2) An election under paragraph (1) for any taxable year may be made (or revoked) at any time before the expiration of the four-year period beginning on the last date prescribed by law for filing the return for that taxable year (determined without regard to extensions).

(3) An election under paragraph (1) (or revocation thereof) shall be made in any manner which the Franchise Tax Board may prescribe by regulations.

(j) (1) Under regulations prescribed by the Franchise Tax Board, in the case of a successor employer referred to in Section 3306(b)(1) of the Internal Revenue Code, the determination of the amount of the credit under this section with respect to wages paid by that successor employer shall be made in the same manner as if those wages were paid by the predecessor employer referred to in that section.

(2) No credit shall be determined under this section with respect to remuneration paid by an employer to an employee for services performed by that employee for another person, unless the amount

reasonably expected to be received by the employer for those services from that other person exceeds the remuneration paid by the employer to that employee for those services.

SEC. 10. Section 17054 of the Revenue and Taxation Code is amended to read:

17054. In the case of individuals computing their tax under Section 17041 or Section 17048, the following credits for personal exemption may be deducted from the tax imposed.

(a) In the case of a single individual, or a married individual making a separate return a credit of twenty-five dollars ($25).

(b) In the case of a head of household, a surviving spouse (as defined in Section 17046), or a husband and wife making a joint return, a credit of fifty dollars ($50). If one spouse was a resident for the entire taxable year and the other spouse was a nonresident for all or any portion of the taxable year, the personal exemption shall be divided equally.

(c) Except as provided in paragraph (2) or (3), a credit of eight dollars ($8) for each dependent (as defined in Section 17056)—

(1) For whom an exemption is allowable under Section 151(e) of the Internal Revenue Code.

(2) If the taxpayer would not occupy the status of head of a household except by reason of there being one or more dependents for whom he or she would be entitled to claim a credit under this subdivision, the credit shall be disallowed with respect to one of the dependents.

(3) No credit for a dependent shall be allowed to a noncustodial parent if both of the following apply:

(A) A credit for the dependent would not be allowed except for the provisions of Section 152(e)(2) or 152(e)(4) of the Internal Revenue Code, relating to exemptions claimed by noncustodial parents.

(B) The custodial parent files a return as head of household for the same taxable year and would not be qualified as head of household except for Section 152(e)(2) or 152(e)(4) of the Internal Revenue Code.

(d) A credit for personal exemption of eight dollars ($8) for the taxpayer if he is blind at the close of his taxable year.

(e) A credit for personal exemption of eight dollars ($8) for the spouse of the taxpayer if a separate return is made by the taxpayer, and if the spouse is blind and, for the calendar year in which the taxable year of the taxpayer begins, as no gross income and is not the dependent of another taxpayer.

(f) For the purposes of this section, an individual is blind only if either: his central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or his visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(g) For taxable years beginning after December 31, 1977 and

before January 1, 1979, the twenty-five dollars ($25) specified in subdivision (a) shall be one hundred dollars ($100) instead of twenty-five dollars ($25), and the fifty dollars ($50) specified in subdivision (b) shall be two hundred dollars ($200) instead of fifty dollars ($50). If the taxpayer has more than one taxable year beginning after December 31, 1977 and before January 1, 1979, such taxpayer shall be allowed the increased exemption provided by this subdivision only with respect to the taxable year which covers the most number of months.

(h) For each taxable year beginning on or after January 1, 1979, and ending on or before November 30, 1984, the Franchise Tax Board shall compute the credits prescribed in this section. Such computation shall be made as follows:

(1) The California Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of 1978 to June of the current calendar year, no later than August 1 of the current calendar year.

(2) The Franchise Tax Board shall add 100 percent to the percentage change figure which is furnished to them pursuant to paragraph (1), and divide the result by 100.

(3) The Franchise Tax Board shall multiply the 1977 taxable year credits by the inflation adjustment factor provided in paragraph (2), rounded off to the nearest one dollar ($1).

(4) In computing the credits pursuant to this subdivision, the credit provided in subdivision (b) shall be twice the credit provided in subdivision (a).

(i) For each taxable year beginning on or after January 1, 1984, the Franchise Tax Board shall compute the credits prescribed in this section. That computation shall be made as follows:

(1) The California Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index as modified for rental equivalent homeownership for all items from June of 1983 to June of the current calendar year, no later than August 1 of the current calendar year.

(2) The Franchise Tax Board shall add 100 percent to the percentage change figure which is furnished to them pursuant to paragraph (1), and divide the result by 100.

(3) The Franchise Tax Board shall multiply the 1983 taxable year credits by the inflation adjustment factor provided in paragraph (2), rounded off to the nearest one dollar ($1).

(4) In computing the credits pursuant to this subdivision, the credit provided in subdivision (b) shall be twice the credit provided in subdivision (a).

SEC. 11. Section 17063 of the Revenue and Taxation Code is amended to read:

17063. For purposes of this chapter, the items of tax preference are:

(a) An amount equal to the excess itemized deductions for the taxable year (as determined under Section 17063.2).

(b) With respect to each "Section 1250 property" (as defined in Section 1250(c) of the Internal Revenue Code), the amount by which the deduction allowable for the taxable year for exhaustion, wear or tear, obsolescence, or amortization exceeds the depreciation deduction which would have been allowable for the taxable year, had the taxpayer depreciated the property under the straight line method for each taxable year of its useful life (determined without regard to Section 167(k) of the Internal Revenue Code) for which the taxpayer has held the property.

(c) With respect to each item of Section 1245 property (as defined in Section 1245(a)(3) of the Internal Revenue Code) which is subject to a lease, the amount by which—

(1) The deduction allowable for the taxable year for depreciation or amortization, exceeds

(2) The deduction which would have been allowable for the taxable year had the taxpayer depreciated the property under the straight line method for each taxable year of its useful life for which the taxpayer has held the property.

(d) With respect to each property (as defined in Sections 17681 to 17690, inclusive), the excess of the deduction for depletion allowable under Section 17681 for the taxable year over the adjusted basis of the property at the end of the taxable year (determined without regard to the depletion deduction for the taxable year).

(e) The amount of the tax preference income with respect to capital gains shall be an amount (but not below zero) equal to the difference between (1) the taxpayer's total net capital gains and losses (determined without regard to any capital loss carryover) for the taxable year, and (2) the taxpayer's net capital gains and losses recognized by virtue of Section 18162.5 for the same taxable year.

(f) The amount of net farm loss in excess of fifty thousand dollars ($50,000) which is deducted from nonfarm income. In the case of a husband or wife who files a separate return, the amount specified in the preceding sentence shall be twenty-five thousand dollars ($25,000). This subdivision shall not apply if two-thirds or more of the taxpayer's average gross income from all sources for the taxable year and immediately preceding two years is from farming. Nor shall this subdivision apply if the net farm loss is the result of aquaculture activities. For purposes of this subdivision, "aquaculture" means a form of agriculture as defined in Section 17 of the Fish and Game Code.

(g) The excess of the intangible drilling and development costs described in Section 263(c) of the Internal Revenue Code paid or incurred in connection with oil, gas, and geothermal wells (other than costs incurred in drilling a nonproductive well) allowable under this part for the taxable year over the amount which would have been allowable for the taxable year if such costs had been capitalized and straight line recovery of intangibles (as defined in Section

17063.3) had been used with respect to such costs. This subdivision shall be applied separately with respect to:

(1) All oil and gas properties which are not described in paragraph (2), and

(2) All properties which are geothermal deposits (as defined in Section 613(e)(3) of the Internal Revenue Code of 1954).

(h) With respect to each mine or other natural deposit (other than an oil or gas well) of the taxpayer, an amount equal to the excess of—

(1) The amount allowable as a deduction under Section 17689.5 or 17690(a), over

(2) The amount which would have been allowable if the expenditures had been capitalized and amortized ratably over the 10-year period beginning with the taxable year in which those expenditures were made.

(i) An amount equal to the excess of—

(1) The amount allowable as a deduction under Section 173 or 174(a) of the Internal Revenue Code, relating to circulation expenses and research and experimental expenditures, for the taxable year, over

(2) The amount which would have been allowable for the taxable year with respect to expenditures paid or incurred during that taxable year if—

(A) The circulation expenditures described in Section 173 of the Internal Revenue Code had been capitalized and amortized ratably over the three-year period beginning with the taxable year in which those expenditures were made, or

(B) The research and experimental expenditures described in Section 174 of the Internal Revenue Code had been capitalized and amortized ratably over the 10-year period beginning with the taxable year in which those expenditures were made.

SEC. 11.1. Section 17063 of the Revenue and Taxation Code is amended to read:

17063. For purposes of this chapter, the items of tax preference are:

(a) An amount equal to the excess itemized deductions for the taxable year (as determined under Section 17063.2)

(b) With respect to each "Section 1250 property" (as defined in Section 1250(c) of the Internal Revenue Code), the amount by which the deduction allowable for the taxable year for exhaustion, wear or tear, obsolescence, or amortization exceeds the depreciation deduction which would have been allowable for the taxable year, had the taxpayer depreciated the property under the straight line method for each taxable year of its useful life (determined without regard to Section 167(k) of the Internal Revenue Code) for which the taxpayer has held the property.

(c) With respect to each item of Section 1245 property (as defined in Section 1245(a)(3) of the Internal Revenue Code) which is subject to a lease, the amount by which—

(1) The deduction allowable for the taxable year for depreciation or amortization, exceeds

(2) The deduction which would have been allowable for the taxable year had the taxpayer depreciated the property under the straight line method for each taxable year of its useful life for which the taxpayer has held the property.

(d) With respect to each property (as defined in Sections 17681 to 17690, inclusive), the excess of the deduction for depletion allowable under Section 17681 for the taxable year over the adjusted basis of the property at the end of the taxable year (determined without regard to the depletion deduction for the taxable year).

(e) The amount of the tax preference income with respect to capital gains shall be an amount (but not below zero) equal to the difference between (1) the taxpayer's total net capital gains and losses (determined without regard to any capital loss carryover) for the taxable year, and (2) the taxpayer's net capital gains and losses recognized by virtue of Section 18162.5 for the same taxable year.

(f) The amount of net farm loss in excess of fifty thousand dollars ($50,000) which is deducted from nonfarm income. In the case of a husband or wife who files a separate return, the amount specified in the preceding sentence shall be twenty-five thousand dollars ($25,000). This subdivision shall not apply if two-thirds or more of the taxpayer's average gross income from all sources for the taxable year and immediately preceding two years is from farming. Nor shall this subdivision apply if the net farm loss is the result of aquaculture activities. For purposes of this subdivision, "aquaculture" means a form of agriculture as defined in Section 17 of the Fish and Game Code.

(g) The excess of the intangible drilling and development costs described in Section 263(c) of the Internal Revenue Code paid or incurred in connection with oil, gas, and geothermal wells (other than costs incurred in drilling a nonproductive well) allowable under this part for the taxable year over the amount which would have been allowable for the taxable year if such costs had been capitalized and straight line recovery of intangibles (as defined in Section 17063.3) had been used with respect to such costs. This subdivision shall be applied separately with respect to:

(1) All oil and gas properties which are not described in paragraph (2), and

(2) All properties which are geothermal deposits (as defined in Section 613(e)(3) of the Internal Revenue Code of 1954).

(h) With respect to each mine or other natural deposit (other than an oil or gas well) of the taxpayer, an amount equal to the excess of—

(1) The amount allowable as a deduction under Section 17689.5 or 17690 (a), over

(2) The amount which would have been allowable if the expenditures had been capitalized and amortized ratably over the 10-year period beginning with the taxable year in which those expenditures

were made.

(i) An amount equal to the excess of—

(1) The amount allowable as a deduction under Section 173 or 174(a) of the Internal Revenue Code, relating to circulation expenses and research and experimental expenditures, for the taxable year, over

(2) The amount which would have been allowable for the taxable year with respect to expenditures paid or incurred during that taxable year if—

(A) The circulation expenditures described in Section 173 of the Internal Revenue Code had been capitalized and amortized ratably over the three-year period beginning with the taxable year in which those expenditures were made, or

(B) The research and experimental expenditures described in Section 174 of the Internal Revenue Code had been capitalized and amortized ratably over the 10-year period beginning with the taxable year in which those expenditures were made.

(j) The amount allowable as a deduction for interest paid or accrued for the taxable year on nonmortgage indebtedness. For purposes of this subdivision, "nonmortgage indebtedness" means all forms of indebtedness except indebtedness secured by a mortgage or deed of trust on real property and indebtedness related to a trade or business.

SEC. 11.5. Section 17069 of the Revenue and Taxation Code is repealed.

SEC. 11.7. Section 17069 is added to the Revenue and Taxation Code, to read:

17069. (a) A low-income tax credit at the percentage provided in subdivision (b) or (c) shall be allowed against the amount of computational tax (as defined in subdivision (j)), with respect to taxable years beginning after December 31, 1984.

(b) In the case of a single person, a married person filing a separate return, or a head of household, the low-income tax credit percentage shall be as follows:

If the adjusted gross income is:	The percentage of credit is.
$5,450 or less	100%
Over $5,450, but not over $6,300	80%
Over $6,300, but not over $7,150	60%
Over $7,150, but not over $8,000	40%
Over $8,000, but not over $8,850	20%
Over $8,850	0%

(c) In the case of a married couple filing a joint return or a surviving spouse, the low-income tax credit percentage shall be as follows:

If the adjusted gross income is:	The percentage of credit is:
$10,900 or less	100%

Over $10,900, but not over $12,600	80%
Over $12,600, but not over $14,300	60%
Over $14,300, but not over $16,000	40%
Over $16,000, but not over $17,700	20%
Over $17,700	0%

(d) The credit provided by this section shall not be available to any of the following:

(1) Any taxpayer required to pay the tax on preference income imposed in Chapter 2.1 (commencing with Section 17062), during the taxable year.

(2) A single person, a married person filing a separate return, or a head of household whose total income (as defined in subdivision (e)) exceeds fifteen thousand dollars ($15,000).

(3) A married couple filing a joint return or a surviving spouse whose total income (as defined in subdivision (e)) exceeds thirty thousand dollars ($30,000).

(4) Trusts or estates subject to tax under this part.

(5) Nonresidents as of the close of the taxable year for which the credit is claimed.

(6) Any taxpayer claiming a credit pursuant to Section 17052.5, 17052.7, 17052.8, or 17052.11.

(e) For the purposes of this section, "total income" means adjusted gross income, as defined in Section 17072, increased by the adjustments to income provided in Section 62(12) of the Internal Revenue Code (relating to penalty for premature withdrawal of certain funds), Section 104 of the Internal Revenue Code (relating to sick pay), Sections 17138 to 17140, inclusive (relating to military exclusion), Section 62(2) of the Internal Revenue Code (relating to employee business expenses), Section 62(7) of the Internal Revenue Code (relating to individual retirement accounts, annuities, and bond deductions), Section 17277 and Section 62(8) of the Internal Revenue Code (relating to moving expenses), subdivision (c) of Section 17513 (relating to self-employed defined benefit plans), and subdivision (a) of Section 17513 (relating to self-employed retirement plan deductions).

(f) For the purposes of this section, "adjusted gross income of a nonresident" means gross income from sources both within and without this state less the deductions allowed by Section 17072.

(g) If, after the tax credit provided by this section is claimed, the Franchise Tax Board determines that the taxpayer's tax liability is more or less than the amount shown on the return, a corresponding adjustment shall be made by the Franchise Tax Board for the low-income tax credit.

(h) For each taxable year beginning on or after January 1, 1986, the Franchise Tax Board shall recompute the adjusted gross income brackets prescribed in subdivisions (b) and (c) by computing an inflation adjustment factor by adding 100 percent to that portion of the percentage change figure which is furnished pursuant to para-

graph (1) of subdivision (g) of Section 17041 and dividing the result by 100, the amount of each bracket to be rounded off to the nearest ten dollars ($10).

(i) The credit computed pursuant to this section shall be rounded off to the nearest dollar.

(j) For purposes of this section, "computational tax" means the tax imposed under either Section 17041 or 17048, minus all other credits for which the taxpayer may be eligible except credits allowed by Section 17053.5 (relating to renters), Section 17061 (relating to withheld SDI worker contributions), and Section 18551.1 (relating to amounts withheld).

SEC. 13. Section 17090 is added to the Revenue and Taxation Code, to read:

17090. (a) Section 71 of the Internal Revenue Code, relating to alimony and separate maintenance payments, shall not be applicable.

(b) (1) If a spouse is divorced or legally separated under a decree of dissolution or of separate maintenance, the spouse's gross income includes periodic payments (whether or not made at regular intervals) received after that decree in discharge of (or attributable to property transferred, in trust or otherwise, in discharge of) a legal obligation which, because of the marital or family relationship, is imposed on or incurred by the other spouse under the decree or under a written instrument incident to that dissolution or separation

(2) If a spouse is separated and there is a written separation agreement, the spouse's gross income includes periodic payments (whether or not made at regular intervals) received after that agreement is executed which are made under that agreement and because of the marital or family relationship (or which are attributable to property transferred, in trust or otherwise, under that agreement and because of that relationship). This paragraph shall not apply if the husband and wife made a single return jointly

(3) If a spouse is separated, the spouse's gross income includes periodic payments (whether or not made at regular intervals) received under a decree entered after March 1, 1954, requiring the other spouse to make the payments for his or her support or maintenance. This paragraph shall not apply if the husband and wife make a single return jointly.

(c) Subdivision (b) shall not apply to that part of any payment which the terms of the decree, instrument, or agreement fix, in terms of an amount of money or a part of the payment, as a sum which is payable for the support of minor children of the spouses. For purposes of the preceding sentence, if any payment is less than the amount specified in the decree, instrument, or agreement, then so much of that payment as does not exceed the sum payable for support shall be considered a payment for that support.

(d) (1) For purposes of subdivision (b), installment payments discharging a part of an obligation the principal sum of which is, either in terms of money or property, specified in the decree, instru-

ment, or agreement shall not be treated as periodic payments.

(2) If, by the terms of the decree, instrument, or agreement, the principal sum referred to in paragraph (1) is to be paid or may be paid over a period ending more than 10 years from the date of that decree, instrument, or agreement, then (notwithstanding paragraph (1)) the installment payments shall be treated as periodic payments for purposes of subdivision (b), but (in the case of any one taxable year of the recipient spouse) only to the extent of 10 percent of the principal sum. For purposes of the preceding sentence, the part of any principal sum which is allocable to a period after the taxable year of the recipient spouse in which it is received shall be treated as an installment payment for the taxable year in which it is received.

(e) The spouse's gross income does not include amounts received which, under subdivision (b), are both of the following:

(1) Includable in the gross income of the other spouse.

(2) Attributable to transferred property.

SEC. 13.3. Section 17091 is added to the Revenue and Taxation Code, to read:

17091. Section 72 of the Internal Revenue Code shall not apply to so much of any payment under an annuity, endowment, or life insurance contract (or any interest therein) as is includable in the gross income of the other spouse under Section 17090, or Section 682 of the Internal Revenue Code, relating to income of an estate or trust in case of divorce, etc.

SEC. 13.5. Section 17134 is added to the Revenue and Taxation Code, to read:

17134. (a) Gross income does not include income up to and including one thousand dollars ($1,000) per annum in the aggregate of an individual who is 65 years of age or over by the end of the taxable year.

(b) In the case of a taxpayer whose adjusted gross income (determined without regard to the income exclusion provided in subdivision (a)) for the taxable year exceeds twenty-five thousand dollars ($25,000), the amount of the exclusion allowed by this section shall be reduced by fifty cents ($0.50) for each one dollar ($1) of that income in excess of twenty-five thousand dollars ($25,000).

For purposes of this section, if the taxpayer is married during any period of the taxable year, there shall be taken into account the combined adjusted gross income of the taxpayer and his or her spouse for that period. However, in the case where a taxpayer and his or her spouse each are qualified to claim the income exemption provided by this section, half of their combined adjusted gross income shall be attributable to each spouse.

(c) The amount excluded pursuant to this section shall be reduced by any amount excluded under Section 17139.

SEC. 13.7. Section 17139 of the Revenue and Taxation Code is amended to read:

17139. Gross income does not include pensions and retirement pay received by an individual for his or her services as a member of

the Armed Forces of the United States, including any auxiliary branch thereof, up to and including one thousand dollars ($1,000) per annum in the aggregate. In the case of a taxpayer whose adjusted gross income (determined without regard to the income exclusion provided in the preceding sentence) for the taxable year exceeds twenty-five thousand dollars ($25,000), the amount of the exclusion allowed by this section shall be reduced by fifty cents ($0.50) for each one dollar ($1) of such income in excess of twenty-five thousand dollars ($25,000). For purposes of this section, if the taxpayer is married during any period of the taxable year, there shall be taken into account the combined adjusted gross income of the taxpayer and his or her spouse for that period. However, in the case where a taxpayer and his or her spouse each are qualified to claim the income exemption provided by this section, half of their combined adjusted gross income shall be attributable to each spouse.

SEC. 13.8. Section 17140 of the Revenue and Taxation Code is amended to read:

17140. Gross income does not include salary, wages, bonuses, allowances, and other compensation received by an individual for his or her services on other than extended active duty as a member of the Armed Forces of the United States, including any auxiliary branch thereof, up to and including one thousand dollars ($1,000) per annum in the aggregate. In the case of a taxpayer whose adjusted gross income (determined without regard to the income exclusion provided in the preceding sentence) for the taxable year exceeds twenty-five thousand dollars ($25,000), the amount of the exclusion allowed by this section shall be reduced by fifty cents ($0.50) for each one dollar ($1) of that income in excess of twenty-five thousand dollars ($25,000). For purposes of this section, if the taxpayer is married during any period of the taxable year, there shall be taken into account the combined adjusted gross income of the taxpayer and his or her spouse for that period. However, in the case where a taxpayer and his or her spouse each are qualified to claim the income exemption provided by this section, half of their combined adjusted gross income shall be attributable to each spouse.

SEC. 14. Section 17136 is added to the Revenue and Taxation Code, to read:

17136. Section 1078 of Public Law 98-369 (Tax Reform Act of 1984), relating to exclusions from gross income of payments from the United States Forest Service as a result of restricting motorized traffic in the Boundary Waters Canoe Area, shall apply, with the following exceptions:

(a) Section 1078(f)(2) of that act shall not be applicable.

(b) This section shall be effective only for payments made in taxable years beginning on or after January 1, 1985.

SEC. 15. Section 17137 of the Revenue and Taxation Code is amended to read:

17137. The exemption of earnings of ship contractors prescribed by Section 134(a)(4) of the Internal Revenue Code shall not be

applicable.

SEC. 16. Section 17142 of the Revenue and Taxation Code is repealed.

SEC. 19. Section 17205 is added to the Revenue and Taxation Code, to read:

17205. Section 215(b) of the Internal Revenue Code, relating to alimony payments, shall be modified by substituting reference to Section 17090 for each reference to Section 71 of the Internal Revenue Code.

SEC. 20. Section 17224 is added to the Revenue and Taxation Code, to read:

17224. Section 163(e) of the Internal Revenue Code shall be modified as follows:

(a) For taxable years beginning on or after January 1, 1985, and before the taxable year in which the debt obligation matures or is sold, exchanged, or otherwise disposed, the amount deductible under this part shall be the same as the amount deductible on the federal tax return.

(b) The difference between the amount deductible on the federal tax return and the amount allowable under this part, with respect to obligations issued after June 9, 1984, for taxable years beginning before January 1, 1985, shall be allowed as a deduction in the taxable year in which the debt obligation matures or is sold, exchanged, or otherwise disposed.

SEC. 21. Section 17240 of the Revenue and Taxation Code, as amended by Chapter 159 of the Statutes of 1985, 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 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(b)(1)(B) or 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) or (B) of the Internal Revenue Code) exceed 20 percent of the taxpayer's adjusted gross income (computed without regard to the taxpayer's charitable contributions).

(e) For purposes of Section 170(c)(2) of the Internal Revenue Code, the term "educational purposes" includes the providing of care of children away from their home if both of the following are satisfied:

(1) Substantially all the care provided by the organization is for purposes of enabling individuals to be gainfully employed.

(2) The services provided by the organization are available to the general public.

SEC. 21.1. Section 17240 of the Revenue and Taxation Code, as amended by Chapter 159 of the Statutes of 1985, 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 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, 1987, and shall be subject to the reduction under Section 170(e)(1) of the Internal Revenue Code.

(2) (A) In the case of artistic property, as defined in this paragraph, the amount taken into account under Section 170(a) of the

Internal Revenue Code shall be reduced by the amount of gain which would have been included in taxable income, if the property had been sold by the taxpayer at its fair market value (determined at the time of contribution).

(B) For the purposes of this paragraph, artistic property created by the personal efforts of the taxpayer shall be treated as a capital asset.

(C) For the purposes of this paragraph, artistic property is property created by the personal efforts of the taxpayer if all of the following conditions are met.

(i) At least 20 percent of the taxpayer's adjusted gross income for the taxable year or at least 50 percent of the taxpayer's adjusted gross income for any of the three prior taxable years is derived from the sale of artistic property created by the personal efforts of the taxpayer.

(ii) The fair market value of the artistic property is established by independent appraisal

(iii) The recipient of the artistic property is an organization exempt from tax pursuant to Section 23701d, or the State of California or a political subdivision or agency thereof, including the Regents of the University of California and any city organized under a freeholder's charter.

(D) For the purposes of this paragraph, "artistic property" includes musical, literary, and artistic creations, but does not include letters, memoranda, or similar property which was written, prepared, or produced by, or for, the taxpayer while holding an office under the government of the United States or of any state or political subdivision thereof, if the writing, preparation, or production was related to, or arose out of, the performance of the duties of the office.

(E) This paragraph shall apply in the computation of taxes for taxable years beginning after December 31, 1986.

(3) 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(b)(1)(B) or 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) or (B) of the Internal Revenue Code) exceed the amount allowed by Section 17241 (computed without regard to the taxpayer's charitable contributions)

(e) For purposes of Section 170(c)(2) of the Internal Revenue Code, the term "educational purposes" includes the providing of care of children away from their home if both of the following are satisfied:

(1) Substantially all the care provided by the organization is for purposes of enabling individuals to be gainfully employed.

(2) The services provided by the organization are available to the

general public.

SEC. 21.2. Section 17240 of the Revenue and Taxation Code, as amended by Chapter 159 of the Statutes of 1985, 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, or after December 31, 1986.

(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 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(b)(1)(B) or 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) or (B) of the Internal Revenue Code) exceed the amount allowed by Section 17241 (computed without regard to the taxpayer's charitable contributions).

(e) For purposes of Section 170(c)(2) of the Internal Revenue Code, the term "educational purposes" includes the providing of care of children away from their home if both of the following are satisfied:

(1) Substantially all the care provided by the organization is for purposes of enabling individuals to be gainfully employed.

(2) The services provided by the organization are available to the general public.

SEC. 21.3. Section 17240 of the Revenue and Taxation Code, as amended by Chapter 159 of the Statutes of 1985, 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, or after December 31, 1986.

(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 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, 1987, and shall be subject to the reduction under Section 170(e)(1) of the Internal Revenue Code.

(2) (A) In the case of artistic property, as defined in this paragraph, the amount taken into account under Section 170(a) of the Internal Revenue Code shall be reduced by the amount of gain which would have been included in taxable income, if the property had been sold by the taxpayer at its fair market value (determined at the time of contribution).

(B) For the purposes of this paragraph, artistic property created by the personal efforts of the taxpayer shall be treated as a capital asset.

(C) For the purposes of this paragraph, artistic property is property created by the personal efforts of the taxpayer if all of the following conditions are met:

(i) At least 20 percent of the taxpayer's adjusted gross income for the taxable year or at least 50 percent of the taxpayer's adjusted gross income for any of the three prior taxable years is derived from the sale of artistic property created by the personal efforts of the taxpayer.

(ii) The fair market value of the artistic property is established by independent appraisal.

(iii) The recipient of the artistic property is an organization exempt from tax pursuant to Section 23701d, or the State of California or a political subdivision or agency thereof, including the Regents of the University of California and any city organized under a freeholder's charter.

(D) For the purposes of this paragraph, "artistic property" includes musical, literary, and artistic creations, but does not include

letters, memoranda, or similar property which was written, prepared, or produced by, or for, the taxpayer while holding an office under the government of the United States or of any state or political subdivision thereof, if the writing, preparation, or production was related to, or arose out of, the performance of the duties of the office.

(E) This paragraph shall apply in the computation of taxes for taxable years beginning after December 31, 1986.

(3) 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(b)(1)(B) or 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) or (B) of the Internal Revenue Code) exceed the amount allowed by Section 17241 (computed without regard to the taxpayer's charitable contributions).

(e) For purposes of Section 170(c)(2) of the Internal Revenue Code, the term "educational purposes" includes the providing of care of children away from their home if both of the following are satisfied:

(1) Substantially all the care provided by the organization is for purposes of enabling individuals to be gainfully employed.

(2) The services provided by the organization are available to the general public.

SEC. 22. Section 17250 of the Revenue and Taxation Code is amended to read:

17250. (a) Section 168 of the Internal Revenue Code, relating to the accelerated cost recovery system, shall only be applicable to the following:

(1) Property of a trade or business conducted in an enterprise zone, as provided by Section 17252.5.

(2) Residential rental property, as provided by Section 17250.5.

(b) For purposes of subdivision (a), sound recordings shall be treated as recovery property only if so elected under Section 48(r) of the Internal Revenue Code.

(c) For purposes of this part:

(1) The provisions of Section 168(f)(13) of the Internal Revenue Code, relating to motor vehicle operating leases, shall be applicable.

(2) For property leased to governments and other tax-exempt entities, the deduction shall be limited to the amount determined under Section 168(j) of the Internal Revenue Code.

(d) For purposes of this part, any reference to "tax imposed by this chapter" in Section 168 of the Internal Revenue Code means "net tax," as defined in Section 17039.

(e) 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.

(f) 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.

(g) 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.

(h) 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. 23. Section 17250.5 of the Revenue and Taxation Code is amended to read:

17250.5. (a) The provisions of Section 168 of the Internal Revenue Code may be used to determine what is a reasonable allowance for purposes of Section 167(a) of the Internal Revenue Code with respect to eligible residential rental property.

(b) Eligible residential rental property shall be deemed "18-year real property" for purposes of the application of Section 168 of the Internal Revenue Code and the calculation of depreciation for that property shall be governed by Section 168(b) of the Internal Revenue Code.

(c) For purposes of this section, "eligible residential rental property" means real property which meets all of the following requirements:

(1) Is located in this state.

(2) Construction on which is commenced on or after July 1, 1985, and before July 1, 1988.

(3) Complies with the requirements for residential rental property specified in Section 167(j)(2)(B) of the Internal Revenue Code.

(d) In addition, the allowance for low-income housing as defined in Section 168(c)(2)(F) of the Internal Revenue Code which is otherwise eligible residential rental property, shall be determined in accordance with Section 168(b)(4) of the Internal Revenue Code.

For purposes of paragraph (2), construction is deemed to have commenced upon the issuance of the initial building permit or upon the recordation of the construction loan.

SEC. 24. Section 17252.5 of the Revenue and Taxation Code is amended to read:

17252.5. (a) A taxpayer may elect to treat the cost of any Section 17252.5 property as a deduction under the terms of the accelerated cost recovery system of Section 168 of the Internal Revenue Code for any taxable year beginning in the year in which Section 17252.5

property is placed in service.

(b) In the case of a husband or wife filing separate returns for a taxable year in which a spouse is entitled to the deduction under subdivision (a), the applicable amount shall be equal to 50 percent of the amount otherwise determined under subdivision (a).

(c) (1) An election under this section for any taxable year shall—

(A) Specify the items of Section 17252.5 property to which the election applies and the portion of the cost of each of those items which is to be taken into account under subdivision (a), and

(B) Be made on the taxpayer's return of the tax imposed by this part for the taxable year.

(2) Any election made under this section, and any specification contained in that election, may not be revoked except with the consent of the Franchise Tax Board.

(d) (1) For purposes of this section, "Section 17252.5 property" means any recovery property which is Section 38 property under the terms of the Internal Revenue Code and which is acquired by purchase for exclusive use in a trade or business conducted within an enterprise zone designated pursuant to Section 7073 of the Government Code.

(2) For purposes of paragraph (1), "purchase" means any acquisition of property, but only if—

(A) The property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under Section 267 or 707(b) of the Internal Revenue Code (but, in applying subsections (b) and (c) of Section 267 of the Internal Revenue Code for purposes of this section, Section 267(c)(4) of the Internal Revenue Code shall be treated as providing that the family of an individual shall include only his spouse, ancestors, and lineal descendants),

(B) The basis of the property in the hands of the person acquiring it is not determined—

(i) In whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or

(ii) Under Sections 18031 through 18033 (relating to property acquired from a decedent).

(3) For purposes of this section, the cost of property does not include so much of the basis of the property as is determined by reference to the basis of other property held at any time by the person acquiring the property.

(4) This section shall not apply to estates and trusts.

(5) This section shall not apply to any Section 17252.5 property purchased by any person described in Section 46(e)(3) of the Internal Revenue Code unless the credit under Section 38 of the Internal Revenue Code is allowable with respect to that person from that property (determined without regard to this section).

(6) In the case of a partnership, the dollar limitation contained in paragraph (1) of subdivision (b) shall apply with respect to the partnership and with respect to each partner.

(e) For purposes of this section, "taxpayer" means a taxpayer who conducts a trade or business within an enterprise zone designated pursuant to Section 7073 of the Government Code.

(f) Any taxpayer who elects to be subject to this section shall not be entitled to claim additional depreciation pursuant to Section 17252 with respect to any property which constitutes Section 17252.5 property.

(g) The aggregate cost which may be taken into account under subdivision (a) for any taxable year shall not exceed the following applicable amount for the taxable year of the designation of an enterprise zone and taxable years thereafter:

	The applicable amount is:
Taxable year of designation	$ 5,000
1st taxable year thereafter	5,000
2nd taxable year thereafter	7,500
3rd taxable year thereafter	7,500
Each taxable year thereafter	10,000

(h) This section shall apply only to property which is used exclusively in a trade or business conducted within an enterprise zone.

SEC. 24.5. Section 17254 of the Revenue and Taxation Code is amended to read:

17254. It is the intent of the Legislature that child development services be established in locations which make it convenient for eligible families who are employed, to be employed, or who are enrolled in employment training programs.

Owners of places of employment who establish facilities which are licensed pursuant to Chapter 3.4 (commencing with Section 1596.70) and Chapter 3.5 (commencing with Section 1596.90) of Division 2 of the Health and Safety Code may elect, in accordance with regulations prescribed by the Franchise Tax Board, to compute the depreciation deduction provided by Section 167(a) of the Internal Revenue Code attributable to those facilities under the straight line method using a useful life of 60 months and no salvage value. That method shall be in lieu of any other method of computing the depreciation deduction under Section 167(a) of the Internal Revenue Code and shall be allowed only for that part of facilities which are licensed pursuant to Chapter 3.4 (commencing with Section 1596.70) and Chapter 3.5 (commencing with Section 1596.90) of Division 2 of the Health and Safety Code.

SEC. 25. Section 17255 is added to the Revenue and Taxation Code, to read:

17255. Except as provided in subdivision (c), Section 280F of the Internal Revenue Code shall be modified as follows.

(a) The terms "deduction" or "recovery deduction," relating to amounts allowable as a deduction under Section 168 of the Internal Revenue Code, means the amount allowable as a deduction for de-

preciation under this part.

(b) The term "recovery period," relating to property under Section 168 of the Internal Revenue Code, means the class life asset depreciation range allowable under this part.

(c) Subdivisions (a) and (b) shall not apply to property defined in subdivision (a) of Section 17250, relating to property subject to the accelerated cost recovery system as defined by Section 168 of the Internal Revenue Code.

(d) For purposes of this part, the amendments made to Section 280F of the Internal Revenue Code by Public Law 99-44 shall be applicable to taxable years beginning on or after January 1, 1985.

SEC. 26. Section 17262 of the Revenue and Taxation Code is amended to read:

17262. (a) Every taxpayer, at the election of the taxpayer, shall be entitled to a deduction of the cost of repairing or remodeling any building, facility or transportation vehicle owned or leased by the taxpayer at the time of such repairing or remodeling, in order to permit handicapped or elderly individuals to enter or leave such building, facility or transportation vehicle, to increase the access handicapped or elderly individuals would have to such building, facility or transportation vehicle, or to allow handicapped or elderly individuals more effective use of such building, facility or transportation vehicle. The installation of emergency egress/safe area refuge systems shall be eligible for such deductions.

(b) The deduction authorized by this section shall be taken with respect to the taxable year in which such repairing or remodeling is completed.

(c) The deduction provided by this section with respect to any taxable year shall be in lieu of any deduction with respect to such repairing or remodeling relating to exhaustion, wear and tear or obsolescence. If, however, the cost of that repair or remodeling exceeds the limit set forth in subdivision (g), the remaining balance may be charged to capital account.

(d) If any building, facility or transportation vehicle is owned by more than one person, a taxpayer may deduct a portion of the costs of such repairing or remodeling apportionate to the interest in such building, facility or transportation vehicle which is owned by the taxpayer.

(e) For purposes of this section, "building, facility or transportation vehicle" means a building, facility or transportation vehicle, or part thereof, which is intended to be used, and is actually used, by the taxpayer, the taxpayer's family, or the general public, in the taxpayer's business or trade or the taxpayer's place of residence; provided, that such residence is located within the State of California.

(f) For purposes of this section, "handicapped individual" means any individual who has a physical or mental disability (including, but not limited to, blindness or deafness) which for such individual constitutes or results in a functional limitation to employment, or who

has any physical or mental impairment (including, but not limited to, a sight or hearing impairment) which substantially limits one or more major life activities of such individual, and "elderly individual" means an individual who is 65 years of age or older.

(g) The deduction authorized by this section shall not exceed thirty-five thousand dollars ($35,000) with respect to any taxpayer for any taxable year.

(h) The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the provisions of this section, and may prescribe regulations as to the deductibility of repairs or remodeling with respect to residences in cooperation with the Department of Rehabilitation and the Office of the State Architect.

(i) This section shall apply to taxable years beginning after December 31, 1976.

(j) (1) The State Fire Marshal in cooperation with the Department of Rehabilitation and the Department of Aging shall adopt building standards and regulations for emergency egress/safe area refuge systems. The building standards and regulations shall include, but not be limited to, minimum requirements for safety, reliability, durability and usability. Emergency egress/safe area refuge systems that comply with the building standards and regulations adopted pursuant to this section shall be eligible for the deduction provided by this section.

(2) It is the intent of the Legislature that this section and the building standards adopted pursuant to this section do not supersede more restrictive building standards and regulations adopted by the state and local governments.

(k) "Emergency egress/safe area refuge system" includes, but not be limited to, all of the following:

(1) A building floor divided into not less than two compartments by not less than one-hour fire-resistive construction. Each door opening in such construction shall be protected by a twenty-minute fire-resistive assembly as defined in regulations of the State Fire Marshal. Duct openings shall be protected by single-blade or curtain-type fire dampers to restrict the passage of smoke or flame. The smaller of the compartmental areas shall be not less than one-fourth the floor area of the story. Each such compartment shall contain a stairway or elevator or other means of ready egress from the building.

(2) A fire alarm system defined in regulations by the State Fire Marshal.

(3) Use of existing exiting systems and warning devices when practical, including, but not limited to, stairways, elevators, and fire alarms.

(4) Accommodations for wheelchairs and all attached wheelchair equipment, as well as wheelchair occupants.

(5) Its own power source.

SEC. 26.5. Section 17270.5 is added to the Revenue and Taxation Code, to read:

17270.5. The amendments to Section 274 of the Internal Revenue

Code (relating to the disallowance of certain entertainment, etc., expenses) made by Public Law 99-44, shall be applicable to taxable years beginning on or after January 1, 1985.

SEC. 27. Section 17272 of the Revenue and Taxation Code is amended to read:

17272. (a) The deduction allowed under Section 219(a) of the Internal Revenue Code shall be limited to the amount provided in either subdivision (b) or (c).

(b) The maximum deduction allowable as provided by Section 219(b) of the Internal Revenue Code for an individual retirement account shall not exceed the lesser of the following:

(1) One thousand five hundred dollars ($1,500).

(2) An amount equal to 15 percent of the compensation includable in the individual's gross income for that taxable year.

(c) The maximum deduction allowable as provided by Section 219(b) of the Internal Revenue Code for simplified employee pensions shall not exceed the lesser of the following:

(1) Fifteen percent of the compensation from the employer includable in the employee's gross income for the taxable year (determined without regard to the employer contribution to the simplified employee pension).

(2) The amount contributed by the employer to the simplified employee pension and included in gross income (but not in excess of two thousand five hundred dollars ($2,500)).

(d) In the case of divorced persons, alimony and separate maintenance payments, as determined under Section 71 of the Internal Revenue Code, shall be treated as compensation for purposes of this section.

(e) No deduction shall be allowed for an individual for the taxable year if for any part of that year:

(1) He or she was an active participant in any of the following:

(A) A plan described in Section 401(a) of the Internal Revenue Code which includes a trust exempt from tax under Section 501(a) of the Internal Revenue Code.

(B) An annuity plan described in Section 403(a) of the Internal Revenue Code.

(C) A plan established for its employees by the United States, by a state or political subdivision thereof, or by an agency or instrumentality of any of the foregoing.

(2) Amounts were contributed by his or her employer for an annuity contract described in Section 403(b) of the Internal Revenue Code (whether or not his or her rights in that contract are nonforfeitable).

(3) This subdivision shall not apply with respect to the employer contribution to a simplified employee pension.

(f) (1) A member of a reserve component of the armed forces (as defined in Section 261(a) of Title 10 of the United States Code) is not considered to be an active participant in a plan solely because he or she is a member of a reserve component unless he or she has served

in excess of 90 days on active duty (other than active duty for training) during the year.

(2) An individual whose participation in a plan is based solely upon his or her activity as a volunteer firefighter and whose accrued benefit as of the beginning of the taxable year is not more than an annual benefit of one thousand eight hundred dollars ($1,800) (when expressed as a single life annuity commencing at age 65) is not considered to be an active participant in such a plan for the taxable year.

(g) The maximum deduction allowable as provided by Section 219(c) of the Internal Revenue Code shall not exceed the excess of the following:

(1) The lesser of:

(A) One thousand seven hundred fifty dollars ($1,750), or

(B) An amount equal to 15 percent of the compensation includable in the individual's gross income for the taxable year, over

(2) The amount allowed as a deduction under subdivision (b) for the taxable year.

SEC. 27.1. Section 17272 of the Revenue and Taxation Code is amended to read:

17272. (a) The deduction allowed under Section 219(a) of the Internal Revenue Code shall be limited to the amount provided in either subdivision (b) or (c).

(b) The maximum deduction allowable as provided by Section 219(b) of the Internal Revenue Code for an individual retirement account shall not exceed the lesser of the following:

(1) One thousand five hundred dollars ($1,500).

(2) An amount equal to 15 percent of the compensation includable in the individual's gross income for that taxable year.

(c) The maximum deduction allowable as provided by Section 219(b) of the Internal Revenue Code for simplified employee pensions shall not exceed the lesser of the following:

(1) Fifteen percent of the compensation from the employer includable in the employee's gross income for the taxable year (determined without regard to the employer contribution to the simplified employee pension).

(2) The amount contributed by the employer to the simplified employee pension and included in gross income (but not in excess of two thousand five hundred dollars ($2,500)).

(d) In the case of divorced persons, alimony and separate maintenance payments, as determined under Section 71 of the Internal Revenue Code, shall be treated as compensation for purposes of this section.

(e) No deduction shall be allowed for an individual for the taxable year if for any part of that year:

(1) He or she was an active participant in any of the following:

(A) A plan described in Section 401(a) of the Internal Revenue Code which includes a trust exempt from tax under Section 501(a) of the Internal Revenue Code.

(B) An annuity plan described in Section 403(a) of the Internal

Revenue Code.

(C)

(D) A plan established for its employees by the United States, by a state or political subdivision thereof, or by an agency or instrumentality of any of the foregoing.

(2) Amounts were contributed by his or her employer for an annuity contract described in Section 403(b) of the Internal Revenue Code (whether or not his or her rights in that contract are nonforfeitable).

(3) This subdivision shall not apply with respect to the employer contribution to a simplified employee pension.

(f) (1) A member of a reserve component of the armed forces (as defined in Section 261(a) of Title 10 of the United States Code) is not considered to be an active participant in a plan solely because he or she is a member of a reserve component unless he or she has served in excess of 90 days on active duty (other than active duty for training) during the year.

(2) An individual whose participation in a plan is based solely upon his or her activity as a volunteer firefighter and whose accrued benefit as of the beginning of the taxable year is not more than an annual benefit of one thousand eight hundred dollars ($1,800) (when expressed as a single life annuity commencing at age 65) is not considered to be an active participant in such a plan for the taxable year.

(g) The maximum deduction allowable as provided by Section 219(c) of the Internal Revenue Code shall not exceed the excess of the following:

(1) The lesser of:

(A) One thousand seven hundred fifty dollars ($1,750), or

(B) An amount equal to 15 percent of the compensation includable in the individual's gross income for the taxable year, over

(2) The amount allowed as a deduction under subdivision (b) for the taxable year.

SEC. 27.2. Section 17272 of the Revenue and Taxation Code is amended to read:

17272. (a) The deduction allowed under Section 219(a) of the Internal Revenue Code shall be limited to the amount provided in either subdivision (b) or (c).

(b) The maximum deduction allowable as provided by Section 219(b) of the Internal Revenue Code for an individual retirement account shall not exceed the lesser of the following:

(1) One thousand five hundred dollars ($1,500).

(2) An amount equal to 100 percent of the compensation includable in the individual's gross income for that taxable year.

(c) The maximum deduction allowable as provided by Section 219(b) of the Internal Revenue Code for simplified employee pensions shall not exceed the lesser of the following:

(1) Fifteen percent of the compensation from the employer includable in the employee's gross income for the taxable year (determined without regard to the employer contribution to the simplified

employee pension).

(2) The amount contributed by the employer to the simplified employee pension and included in gross income (but not in excess of two thousand five hundred dollars ($2,500)).

(d) In the case of divorced persons, alimony and separate maintenance payments, as determined under Section 71 of the Internal Revenue Code, shall be treated as compensation for purposes of this section.

(e) The maximum deduction allowable as provided by Section 219(c) of the Internal Revenue Code shall not exceed the excess of the following:

(1) The lesser of:

(A) One thousand seven hundred fifty dollars ($1,750), or

(B) An amount equal to 100 percent of the compensation includable in the individual's gross income for the taxable year, over

(2) The amount allowed as a deduction under subdivision (b) for the taxable year.

SEC. 27.3. Section 17272 of the Revenue and Taxation Code is amended to read:

17272. (a) The deduction allowed under Section 219(a) of the Internal Revenue Code shall be limited to the amount provided in either subdivision (b) or (c).

(b) The maximum deduction allowable as provided by Section 219(b) of the Internal Revenue Code for an individual retirement account shall not exceed the lesser of the following:

(1) One thousand five hundred dollars ($1,500).

(2) An amount equal to 100 percent of the compensation includable in the individual's gross income for that taxable year.

(c) The maximum deduction allowable as provided by Section 219(b) of the Internal Revenue Code for simplified employee pensions shall not exceed the lesser of the following:

(1) Fifteen percent of the compensation from the employer includable in the employee's gross income for the taxable year (determined without regard to the employer contribution to the simplified employee pension).

(2) The amount contributed by the employer to the simplified employee pension and included in gross income (but not in excess of two thousand five hundred dollars ($2,500)).

(d) In the case of divorced persons, alimony and separate maintenance payments, as determined under Section 71 of the Internal Revenue Code, shall be treated as compensation for purposes of this section.

(e) The maximum deduction allowable as provided by Section 219(c) of the Internal Revenue Code shall not exceed the excess of the following:

(1) The lesser of:

(A) One thousand seven hundred fifty dollars ($1,750), or

(B) An amount equal to 100 percent of the compensation includable in the individual's gross income for the taxable year, over

(2) The amount allowed as a deduction under subdivision (b) for the taxable year.

SEC. 28. Section 17280 of the Revenue and Taxation Code is amended to read:

17280. (a) No deduction shall be denied as provided by Section 265 of the Internal Revenue Code, relating to expenses and interest relating to tax-exempt income.

(b) No deduction shall be allowed for any of the following:

(1) Any amount otherwise allowable as a deduction which is allocable to one or more classes of income other than interest (whether or not any amount of income of that class or classes is received or accrued) wholly exempt from the taxes imposed by this part, or any amount otherwise allowable under Section 212 of the Internal Revenue Code (relating to expenses for production of income) which is allocable to interest (whether or not any amount of such interest is received or accrued) wholly exempt from the taxes imposed by this part.

(2) Interest on indebtedness incurred or continued to purchase or carry obligations the interest on which is wholly exempt from the taxes imposed by this part. The proper apportionment and allocation of the deduction with respect to taxable and nontaxable income shall be determined under rules and regulations prescribed by the Franchise Tax Board.

(3) Interest on indebtedness incurred or continued to purchase or carry shares of stock of a diversified management company which during the taxable year of the holder thereof distributes exempt-interest dividends.

(c) For purposes of paragraph (2) of subdivision (b):

(1) "Interest" includes any amount paid or incurred—

(A) By any person making a short sale in connection with personal property used in that short sale, or

(B) By any other person for the use of any collateral with respect to that short sale.

(2) If—

(A) The taxpayer provides cash as collateral for any short sale, and

(B) The taxpayer receives no material earnings on that cash during the period of the sale, subparagraph (A) of paragraph (1) shall not apply to that short sale.

SEC. 29. Section 17288 is added to the Revenue and Taxation Code, to read:

17288. Section 280G of the Internal Revenue Code, relating to golden parachute payments, shall not be applicable.

SEC. 30. Section 17324 of the Revenue and Taxation Code is repealed.

SEC. 31. Section 17502 of the Revenue and Taxation Code is repealed.

SEC. 32. Section 17507 of the Revenue and Taxation Code is amended to read:

17507. The provisions of Section 408 of the Internal Revenue

Code, relating to individual retirement accounts, shall be modified as follows:

(a) The following provisions shall be incorporated into Section 408(e) of the Internal Revenue Code:

(1) In the case of such a plan in existence in taxable year 1975 where contributions were made pursuant to, and in conformance with, Section 408 or 409 of the Internal Revenue Code of 1954, as amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406), any net income attributable to the 1975 contribution shall not be includable in the gross income, for taxable year 1977 or succeeding taxable years, of the individual for whose benefit the plan was established until distributed pursuant to the provisions of the plan or by operation of law.

(2) In the case of a simplified employee pension, where contributions are also made pursuant to, and in conformance with, the provisions of Section 408(k) of the Internal Revenue Code of 1954, the net income attributable to the nondeductible portion of such contributions shall not be includable in the gross income of the individual for whose benefit the plan was established for the taxable year or for succeeding taxable years until distributed pursuant to the provisions of the plan or by operation of law.

(3) Notwithstanding the limitations provided in Section 17272 with respect to the amount of deductible contributions and individuals eligible for the deduction, any income attributable to contributions made to a plan in existence in taxable years beginning on or after January 1, 1982, in conformance with Sections 219, 220, 408, and 409 of the Internal Revenue Code of 1954, as amended by Public Law 97-34, shall not be includable in the gross income of the individual for whose benefit the plan was established until distributed pursuant to the provisions of the plan or by operation of law. The Franchise Tax Board shall prescribe regulations with respect to the determination of the amount of the income included in the amount distributed or deemed distributed by operation of law which is includable in the individual's gross income in the taxable year in which the distribution is received or deemed distributed by operation of law

(b) The additional tax imposed by Section 408(f) of the Internal Revenue Code shall be an amount equal to 2½ percent of the amount required to be included in gross income.

(c) The provisions of Section 408(d) of the Internal Revenue Code are modified as follows:

(1) For taxable years beginning on or after January 1, 1983, Section 408(d)(1) of the Internal Revenue Code shall be modified to provide that the basis of any person in such an account or annuity is the amount of contributions not allowed as a deduction under subdivision (a), (c), (d), or (f) of Section 17272 on account of the purchase of the account or annuity.

(2) Any amount paid or distributed out of an individual retirement account or under an individual retirement annuity shall first be attributable to basis as defined in paragraph (1) and shall not be

included in gross income until the amount excluded under this paragraph is equal to the amount of the basis.

(d) A copy of the report, which is required to be filed with the Secretary of the Treasury under Section 408(i) or 408(l) of the Internal Revenue Code, shall be filed with the Franchise Tax Board at the same time and in the same manner as specified in those sections.

SEC. 33. Section 17508 of the Revenue and Taxation Code is repealed.

SEC. 34. Section 17558 is added to the Revenue and Taxation Code, to read:

17558. With respect to rental agreements entered into after June 8, 1984, and before January 1, 1985, the taxpayer may elect to have Section 467 of the Internal Revenue Code applicable if both of the following occur:

(a) That election is made on his or her tax return for the first taxable year beginning on or after January 1, 1985.

(b) The taxpayer includes in income on that tax return an amount equal to the amount that would have been required to be included in income in the preceding taxable year had the provisions of Section 467 of the Internal Revenue Code been applicable for purposes of this part for that taxable year.

SEC. 34.5. Section 17737 is added to the Revenue and Taxation Code, to read.

17737. For purposes of computing the taxable income of the estate or trust and the taxable income of a spouse to whom Section 682(a) of the Internal Revenue Code (relating to income of an estate or trust in the case of divorce, etc.) or Section 17090 applies, that spouse shall be considered as the beneficiary for purposes of this chapter. A periodic payment under Section 17090 to any portion of which this chapter applies shall be included in the gross income of the beneficiary in the taxable year in which under this chapter that portion is required to be included.

SEC. 35. Section 17750 is added to the Revenue and Taxation Code, to read:

17750. In the case of any distribution after June 1, 1984, and before January 1, 1985, the time for making an election under Section 643(d)(3) of the Internal Revenue Code, as added by Public Law 98-369, shall not expire before January 1, 1986, and the requirement that the election be made on the return of the estate or trust shall not apply.

SEC. 36. Section 17800 of the Revenue and Taxation Code is amended to read:

17800. Section 692(c) of the Internal Revenue Code shall be applicable in the computation of taxes for taxable years beginning on or after January 1, 1984.

SEC. 37 Section 18040 of the Revenue and Taxation Code is amended to read:

18040. The provisions of Section 1060 of the Internal Revenue Code, relating to nonrecognition of gain for certain vessels, shall not

be applicable.

SEC. 38. Section 18042 is added to the Revenue and Taxation Code, to read·

18042. The provisions of Section 1042 of the Internal Revenue Code, relating to sales of stock to stock ownership plans or certain cooperatives, shall not apply.

SEC. 39 Section 18043 is added to the Revenue and Taxation Code, to read:

18043. For purposes of this part, the effective dates for paragraph (3) of Section 1031(a) of the Internal Revenue Code are as follows:

(a) Paragraph (3) of Section 1031(a) of the Internal Revenue Code shall be applied to any of the following:

(1) Transfers affected by this section after the effective date of the act adding this section.

(2) Transfers on or before the effective date of the act adding this section, provided the property to be received in exchange is not received before January 1, 1987.

(b) In the case of any transfer, on or before the effective date of the act adding this section, which the taxpayer treated as part of a like-kind exchange, the period for assessing any deficiency of tax attributable to this section shall not expire before January 1, 1989.

(c) If property to be received in the exchange, which the taxpayer treated as part of a like-kind exchange, is identified in a binding contract in effect on the effective date of the act adding this section, and at all times thereafter before the transfer, this section shall be applied—

(1) By substituting "January 1, 1989" for "January 1, 1987," and

(2) By substituting "January 1, 1991" for "January 1, 1989."

SEC. 40. Section 18169 of the Revenue and Taxation Code is amended to read:

18169. (a) The definition of property used in the trade or business, as defined by Section 1231(b) of the Internal Revenue Code, shall not include coal and iron ore.

(b) The recapture of net ordinary losses, provided by Section 1231(c) of the Internal Revenue Code, shall be offset against current year Section 1231 gains in the following order—

(1) First, against gains to which paragraph (3) of subdivision (a) of Section 18162.5 applies, then

(2) Against gains to which paragraph (2) of subdivision (a) of Section 18162.5 applies.

SEC. 41. Section 18170 of the Revenue and Taxation Code is repealed.

SEC. 42. Section 18174 of the Revenue and Taxation Code is repealed.

SEC. 43. Section 18402.8 is added to the Revenue and Taxation Code, to read·

18402.8. (a) Under regulations prescribed by the Franchise Tax Board, if—

(1) An individual does not file a joint return for any taxable

year,

(2) That individual does not include in gross income for that taxable year an item of community income properly includable therein,

(3) The individual establishes that he or she did not know of, and had no reason to know of, that item of community income, and

(4) Taking into account all facts and circumstances, it is inequitable to include that item of community income in that individual's gross income,

then, for purposes of this part, that item of community income shall be included in the gross income of the other spouse (and not in the gross income of the individual).

(b) The Franchise Tax Board may disallow the benefits of any community property law to any taxpayer with respect to any income if that taxpayer acted as if solely entitled to that income and failed to notify the taxpayer's spouse before the due date (including extensions) for filing the return for the taxable year in which the income was derived of the nature and amount of that income.

SEC. 44. Section 18402.9 of the Revenue and Taxation Code is amended to read:

18402.9. (a) Under regulations prescribed by the Franchise Tax Board, if—

(1) A joint return has been made under this chapter for a taxable year and on that return taxable income was understated by either the omission of, an amount properly includable therein, or by erroneous deductions or credits, which is attributable to one spouse,

(2) The other spouse establishes that in signing the return he or she did not know of, and had no reason to know of, that understatement, and

(3) Taking into account whether or not the other spouse significantly benefited directly or indirectly from the understatement of taxable income and taking into account all other facts and circumstances, it is inequitable to hold the other spouse liable for the deficiency in tax for that taxable year attributable to that understatement,

then the other spouse shall be relieved of liability for tax (including interest, penalties, and other amounts) for that taxable year to the extent that such liability is attributable to that understatement of taxable income.

(b) For purposes of this section, the determination of the spouse to whom items of taxable income understatement are attributable shall be made without regard to community property laws.

(c) This section shall apply to all taxable years subject to the provisions of this part, but shall not apply to a year which has been closed by a statute of limitations, res judicata or otherwise.

(d) For purposes of paragraph (2) of subdivision (a) "reason to know" means whether or not a reasonably prudent person would have had reason to know of the understatement.

(e) For purposes of this section, with respect to an omission of an item from income, "attributable to one spouse" may be determined by whether a spouse rendered substantial service in producing the item of income to which the understatement is attributable. If neither spouse rendered substantial services in producing that income, then the attribution of applicable items of understatement shall be treated as community property. An erroneous deduction or credit shall be attributable to the spouse who caused that deduction or credit to be entered on the return.

SEC. 45. Section 18415 of the Revenue and Taxation Code is repealed.

SEC. 46. Section 18435 of the Revenue and Taxation Code is repealed.

SEC. 46.5. Section 18551.1 of the Revenue and Taxation Code is amended to read:

18551.1. (a) For purposes of this part, the amount withheld under Section 18805 of this code and Section 13020 of the Unemployment Insurance Code during any calendar year shall be allowed to the recipient of the income as a credit against the tax imposed by this part as a credit for the taxable year with respect to which such amount was withheld.

(b) For purposes of Section 19053, any tax actually deducted and withheld during any calendar year under Section 18805 of this code and Section 13020 of the Unemployment Insurance Code shall, in respect of the recipient of the income, be deemed to have been paid by him on the 15th day of the fourth month following the close of the taxable year with respect to which such tax is allowable as a credit under subdivision (a). For purposes of Sections 19053 and 19062, any amount paid as estimated income tax under Section 18682 of this code or Section 13043 of the Unemployment Insurance Code for any taxable year shall be deemed to have been paid on the last day prescribed for filing the return under Section 18401 for such taxable year (determined without regard to any extension of time for filing such return).

(c) Notwithstanding subdivision (b), for purposes of Section 19053 with respect to any tax deducted and withheld under Section 18805 of this code or Section 13020 of the Unemployment Insurance Code—

(1) If a return for any period ending with or within a calendar year is filed before April 15 of the succeeding calendar year, such return shall be considered filed on April 15 of such succeeding calendar year; and

(2) If a tax with respect to an amount paid during any period ending with or within a calendar year is paid before April 15 of the succeeding calendar year, such tax shall be considered paid on April 15 of such succeeding calendar year.

(d) If any overpayment of income tax is, in accordance with Section 19051.1, claimed as a credit against estimated tax for the succeeding taxable year, such amount shall be considered as a payment of the

income tax for the succeeding taxable year (whether or not claimed as a credit in the return of estimated tax for such succeeding taxable year), and no claim for credit or refund of such overpayment shall be allowed for the taxable year in which the overpayment arises.

SEC. 47. Section 18556 of the Revenue and Taxation Code is repealed.

SEC. 48. Section 18557 of the Revenue and Taxation Code is amended to read:

18557. Payment of the estimated income tax, or any installment thereof, shall be considered payment on account of the income taxes imposed by this part for the taxable year.

SEC. 49. 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.

(c) Where, within the 60-day period ending on the day on which the time prescribed in this section for the assessment of any tax imposed by this part for any taxable year would otherwise expire, the Franchise Tax Board receives a written document signed by the taxpayer showing that the taxpayer owes an additional amount of that tax for that taxable year, the period for the assessment of that additional amount shall not expire before the day 60 days after the day on which the Franchise Tax Board receives that document.

SEC. 50. Section 18602 of the Revenue and Taxation Code is amended to read:

18602. (a) If on any return or claim for refund of taxes imposed under this part, there is an overstatement of the credit for income tax withheld, or of the amount paid as estimated income tax, the amount so overstated which is allowed against the tax shown on the return or which is allowed as a credit or refund may be assessed by the Franchise Tax Board in the same manner as is provided by Section 18601 in the case of a mathematical error appearing on the return.

(b) No unpaid amount of estimated tax under Section 18682 shall be assessed.

SEC. 51. Section 18681 of the Revenue and Taxation Code is amended to read:

18681. (a) If any taxpayer fails to make and file a return required

by this part on or before the due date of the return or the due date as extended by the Franchise Tax Board, then, unless it is shown that the failure is due to reasonable cause and not due to willful neglect, 5 percent of the tax shall be added to the tax for each month or fraction thereof elapsing between the due date of the return and the date on which filed, but the total penalty shall not exceed 25 percent of the tax. The penalty so added to the tax shall be due and payable upon notice and demand from the Franchise Tax Board.

(b) For purposes of subdivision (a), the amount of tax required to be shown on the return shall be reduced by the amount of any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which may be claimed upon the return.

(c) This section shall not apply to any failure to pay any estimated tax required by Section 18682.

(d) Notwithstanding subdivision (b), in the case of a failure to file a return of tax required by this part within 60 days of the date prescribed for filing of that return (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, the penalty under subdivision (a) shall not be less than the lesser of one hundred dollars ($100) or 100 percent of the amount of tax required to be shown on the return.

SEC. 52. Section 18681.1 of the Revenue and Taxation Code is repealed.

SEC. 53. Section 18681.1 is added to the Revenue and Taxation Code, to read:

18681.1 (a) In the case of each failure—

(1) To file a statement of the amount of payments to another person required by—

(A) Subdivision (a) of Section 18802 (relating to information at source),

(B) Subdivision (a) of Section 18802.8 (relating to reporting requirements of certain fishing boat operators), or

(2) To make a return required by—

(A) Subdivision (a) of Section 18802.3 (relating to information reporting requirements for real property owners),

(B) Section 18802.4 (relating to information reporting requirements for brokers and barterers),

(C) Subdivision (a) of Section 18802.5 (relating to reporting payment of wages in the form of group-term life insurance),

(D) Subdivision (a) of Section 18802.6 (relating to copies of federal information returns),

(E) Section 18803 (relating to information reporting requirements for income from securities), on the date prescribed therefor (determined with regard to any extension of time for filing),

unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid (upon notice and demand by the Franchise Tax Board and in the same manner as the tax), by the

person failing to file a statement referred to in paragraph (1) or failing to make a return referred to in paragraph (2), fifty dollars ($50) for each such failure, but the total amount imposed on the delinquent person for all such failures during any calendar year shall not exceed ten thousand dollars ($10,000).

(b) In the case of each failure to file a return of the amount of payments to another person required by subdivision (a) of Section 18802.1 (relating to payments of patronage dividends, on the date prescribed therefor (determined with regard to any extension of time for filing), there shall be paid by the person failing to file such statement a penalty of fifty dollars ($50) for each such failure unless it is shown that such person exercised due diligence in attempting to satisfy the requirement with respect to that statement.

(3) Article 2 (commencing with Section 18581) of Chapter 18 of this part (relating to deficiency assessments) shall not apply with respect to the assessment or collection of any penalty imposed by subdivision (b).

(c) If one or more failures to which subdivision (a) or (b) applies are due to intentional disregard of the filing requirement, then with respect to those failures—

(1) The penalty imposed under subdivision (a) shall not be less than an amount equal to—

(A) In the case of a return not described in subparagraph (B) or (C), 10 percent of the aggregate amount of the items required to be reported,

(B) In the case of a return required to be filed by Section 18802.4, 5 percent of the gross proceeds required to be reported,

(C) In the case of a return required to be filed under paragraph (1), (2), or (3) of subdivision (a) of Section 18802.6, one hundred dollars ($100) for each such failure, and

(2) The ten thousand dollar ($10,000) limitation under subdivision (a) shall not apply.

(d) In the case of each failure to provide a written explanation as required by Section 402(f) of the Internal Revenue Code, at the time prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid, on notice and demand of the Franchise Tax Board and in the same manner as tax, by the person failing to provide that written explanation, an amount equal to ten dollars ($10) for each such failure, but the total amount imposed on that person for all those failures during any calendar year shall not exceed five thousand dollars ($5,000).

SEC. 54. Section 18681.7 is added to the Revenue and Taxation Code, to read:

18681.7. (a) In the case of each failure—

(1) To furnish a statement under subdivision (d) of Section 18802, subdivision (b) of Section 18802.4, subdivision (b) of Section 18802.5, or subdivision (b) of Section 18802.6, on the date prescribed therefor to a person with respect to whom a return has been made under subdivision (a) of Section 18802, subdivision (a)

of Section 18802.4, subdivision (a) of Section 18802.5, or subdivision (a) of Section 18802.6, respectively, or

(2) To furnish a statement under subdivision (b) of Section 18802.8 (relating to statements furnished by certain fishing boat operators), on the date prescribed therefor to a person with respect to whom such a statement is required,

unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid (upon notice and demand by the Franchise Tax Board and in the same manner as tax) by the person failing to so furnish the statement fifty dollars ($50) for each such statement not so furnished, but the total amount imposed on the delinquent person for all such failures during any calendar year shall not exceed ten thousand dollars ($10,000).

(b) In the case of any person who fails to furnish a statement under subdivision (b) of Section 18802.1 or subdivision (d) of Section 18803 on the date prescribed therefor to a person with respect to whom a return has been made under subdivision (a) of Section 18802.1 or Section 18803, respectively, that person shall pay a penalty of fifty dollars ($50) for each such failure unless it is shown that such person exercised due diligence in attempting to satisfy the requirement with respect to that statement.

(c) Article 2 (commencing with Section 18581) of Chapter 18 of this part (relating to deficiency assessments) shall not apply with respect to the assessment or collection of any penalty imposed by subdivision (b).

(d) In the case of any person who fails to furnish the notice described in Section 6050K(c)(1) of the Internal Revenue Code, as required by subdivision (c) of Section 18802.6, on the date prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful neglect, that person shall pay a penalty of fifty dollars ($50) for each such failure.

SEC. 55. Section 18681.8 is added to the Revenue and Taxation Code, to read:

18681.8. (a) A penalty shall be imposed for failure to furnish information pursuant to Section 18803.1 and the penalty amount shall be determined in accordance with Section 6707 of the Internal Revenue Code.

(b) Article 2 (commencing with Section 18581) of this chapter (relating to deficiency procedures for income taxes) shall not apply in respect of the assessment or collection of any penalty imposed under this section.

SEC. 56. Section 18681.9 is added to the Revenue and Taxation Code, to read:

18681.9. (a) The person required by subdivision (d) of Section 17507 to file a report regarding an individual retirement account or individual retirement annuity shall pay a penalty of fifty dollars ($50) for each failure, unless it is shown that such failure is due to reasonable cause.

(b) Article 2 (commencing with Section 18581) of this chapter

(relating to deficiency procedures for income taxes) shall not apply in respect of the assessment or collection of any penalty imposed under this section.

SEC. 57. Section 18682 is added to the Revenue and Taxation Code, to read:

18682. (a) An amount shall be added to the tax imposed under Section 17041 or 17048 for any underpayment of estimated tax. The amount shall be determined in accordance with Section 6654 of the Internal Revenue Code, except as otherwise provided in this section.

(b) The applicable annual rate specified in Section 6654(a)(1) of the Internal Revenue Code shall be the rate determined under Section 19269.

(c) The annualized income installment, determined under Section 6654(d)(2) of the Internal Revenue Code, shall not include "alternative minimum taxable income" or "adjusted self-employment income."

(d) Section 6654(e) of the Internal Revenue Code is modified as follows:

(1) Paragraph (1) shall not be applicable.

(2) No addition to the tax shall be imposed under this section if:

(A) The tax—

(i) Imposed under Section 17041 or 17048 for the preceeding taxable year, minus the sum of any credits against the tax provided by this part, or

(ii) Computed under Section 17041 or 17048 upon the estimated income for the taxable year, minus the sum of any credits against the tax provided by this part—is less than one hundred dollars ($100), except in the case of a separate return filed by a married person the amount shall be less than fifty dollars ($50); or

(B) Eighty percent or more of the tax imposed under Section 17041 or 17048 for the preceding taxable year, less any credits against the tax other than the credit allowed under Section 18551.1 for tax withheld on wages pursuant to Section 13020 of the Unemployment Insurance Code, was paid; or

(C) Eighty percent or more of the estimated tax for the taxable year will be paid by withholding of tax on wages, as provided by Section 13020 of the Unemployment Insurance Code; or

(D) Eighty percent or more of the adjusted gross income for the taxable year consists of wages subject to withholding pursuant to Section 13020 of the Unemployment Insurance Code. However, this paragraph shall not apply if the employee files a false or fraudulent withholding exemption certificate for the taxable year.

(e) Section 6654(f) of the Internal Revenue Code shall not apply and for purposes of this section the term "tax" means the tax imposed under Section 17041 or 17048, less any credits against the tax provided by this part, other than the credit provided by Section 18551.1 (relating to tax withheld on wages).

(f) The credit for tax withheld on wages, as specified in Section 6654(g) of the Internal Revenue Code, shall be the credit allowed

under Section 18551.1.

(g) This section shall apply to a nonresident individual.

SEC. 58. Section 18684 of the Revenue and Taxation Code is amended to read:

18684. (a) If any part of any deficiency is due to negligence, or intentional disregard of rules and regulations, but without intent to defraud, 5 percent of the total amount of the deficiency, in addition to the deficiency and other penalties provided in this article, shall be assessed, collected, and paid in the same manner as if it were a deficiency.

(b) There shall be added to the tax (in addition to the amount determined under subdivision (a)) an amount equal to 50 percent of the interest payable under Sections 18686 through 18697—

(1) With respect to the portion of the deficiency described in subdivision (a) which is attributable to the negligence or intentional disregard referred to in subdivision (a), and

(2) For the period beginning on the last date prescribed by law for the payment of that deficiency (determined without regard to any extension) and ending on the date of the assessment of the tax (or, if earlier, the date of the payment of the tax).

(c) The amendments to this section made by the 1981–82 Regular Session of the Legislature shall apply to taxes the last date prescribed for payment of which is after December 31, 1981.

SEC. 59. Section 18684.7 is added to the Revenue and Taxation Code, to read:

18684.7. A penalty shall be imposed under this section for any of the following:

(a) In accordance with Section 6695(a) of the Internal Revenue Code, for failure to furnish a copy of the return to the taxpayer, as required by Section 18935.

(b) In accordance with Section 6695(c) of the Internal Revenue Code, for failure to furnish an identifying number, as required by Section 18934.

(c) In accordance with Section 6695(d) of the Internal Revenue Code, for failure to retain a copy or list, as required by Section 18935.

SEC. 60. Section 18684.8 is added to the Revenue and Taxation Code, to read:

18684.8. The following rules shall apply to any penalty imposed under Section 18684.6 or Section 18684.7:

(a) The penalties shall be in addition to any other penalties provided by law.

(b) Article 2 (commencing with Section 18581) of this chapter (relating to deficiency assessments) shall not be applicable.

SEC. 61. Section 18685.05 of the Revenue and Taxation Code is repealed.

SEC. 62. Section 18685.07 of the Revenue and Taxation Code is amended to read:

18685.07. (a) If any person who is required by regulations prescribed under Section 18934—

(1) To include his identifying number in any return, statement, or other document,

(2) To furnish his identifying number to another person, or

(3) To include in any return, statement, or other document made with respect to another person the identifying number of that other person,

fails to comply with that requirement at the time prescribed by those regulations, that person shall, unless it is shown that such failure is due to reasonable cause and not to willful neglect, pay a penalty of five dollars ($5) for each such failure described in paragraph (1) and ten dollars ($10) for each such failure described in paragraph (2) or (3), except that the total amount imposed on that person for all those failures during any calendar year shall not exceed ten thousand dollars ($10,000).

(b) Article 2 (commencing with Section 18581) of this chapter (relating to deficiency procedures for income taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subdivision (a).

(c) If any person who is required by regulations prescribed under Section 215 of the Internal Revenue Code, relating to alimony payments, to do any of the following:

(1) To furnish his or her taxpayer identification number to another person, or

(2) To include on his or her return the taxpayer identification number of another person,

fails to comply with that requirement at the time prescribed by those regulations, that person shall unless it is shown that such failure is due to reasonable cause and not to willful neglect, pay a penalty of ten dollars ($10) for each such failure.

SEC. 63. Section 18685.8 of the Revenue and Taxation Code is repealed.

SEC. 64. Section 18685.9 of the Revenue and Taxation Code is repealed.

SEC. 65. Section 18689 of the Revenue and Taxation Code is amended to read:

18689. (a) Except as provided in Section 18692, interest shall be imposed under this article with respect to any assessable penalty as provided in this section.

(b) In the case of a penalty which, when assessed, is due and payable on notice and demand, other than a penalty imposed under Section 18681 (relating to failure to file a return on or before the due date), interest shall be imposed from the date of the notice and demand to the date of payment.

(c) In the case of a penalty which is initially assessed as a deficiency, other than a penalty imposed under Section 18681 (relating to failure to file a return on or before the due date), Section 18684.4 (relating to substantial understatement of tax liability), or Section 18699 (relating to valuation overstatements), interest shall be imposed from the date of the notice of proposed assessment to the date

of payment.

(d) Interest shall be imposed under this article with respect to any penalty imposed by Section 18681 (relating to failure to file a return on or before the due date), Section 18684.4 (relating to substantial understatement of tax liability), or Section 18699 (relating to valuation overstatements), for the period which—

(1) Begins on the date on which the return of the tax with respect to which that penalty is imposed is required to be filed (including any extensions), and

(2) Ends on the date of payment of that addition to tax.

SEC. 66. Section 18696 of the Revenue and Taxation Code is amended to read:

18696. Sections 18686 to 18695, inclusive, shall not apply to any failure to pay estimated tax required by Section 18682.

SEC. 67. Section 18699 of the Revenue and Taxation Code is amended to read:

18699. (a) If a taxpayer has an underpayment of the tax imposed by this part for the taxable year which is attributable to a valuation overstatement, then there shall be added to the tax an amount equal to the applicable percentage of the underpayment so attributable.

(b) For purposes of subdivision (a), the applicable percentage shall be determined under the following table:

If the valuation claimed is the following percent of the correct valuation—	The applicable percentage is:
150 percent or more but not more than 200 percent	10
More than 200 percent but not more than 250 percent	20
More than 250 percent	30

(c) For purposes of this section, there is a valuation overstatement if the value of any property, or the adjusted basis of any property, claimed on any return is 150 percent or more of the amount determined to be the correct amount of the valuation or adjusted basis (as the case may be).

(d) This section shall not apply if the underpayment for the taxable year attributable to valuation overstatements is less than one thousand dollars ($1,000).

(e) The Franchise Tax Board may waive all or any part of the addition to the tax provided by this section on a showing by the taxpayer that there was a reasonable basis for the valuation or adjusted basis claimed on the return and that the claim was made in good faith.

(f) (1) In the case of any underpayment attributable to a valuation overstatement with respect to charitable deduction property, the applicable percentage for purposes of subdivision (a) shall be 30 percent.

(2) In the case of any underpayment attributable to a valuation overstatement with respect to charitable deduction property, the Franchise Tax Board may not waive any portion of the addition to tax provided by this section, unless the Franchise Tax Board determines that both of the following have occurred:

(A) The claimed value of the property was based on a qualified appraisal made by a qualified appraiser.

(B) In addition to obtaining that appraisal, the taxpayer made a good faith investigation of the value of the contributed property.

(3) For purposes of this subdivision:

(A) "Charitable deduction property" means any property contributed by the taxpayer in a contribution for which a deduction was claimed under Section 170 of the Internal Revenue Code. For purposes of paragraph (2), that term shall not include any securities for which (as of the date of the contribution) market quotations are readily available on an established securities market.

(B) "Qualified appraiser" means any appraiser meeting the requirements of the regulations prescribed under Section 170(a)(1) of the Internal Revenue Code.

(C) "Qualified appraisal" means any appraisal meeting the requirements of the regulations prescribed under Section 170(a)(1) of the Internal Revenue Code.

(g) For purposes of this section, "underpayment" has the meaning given to that term by Section 6653(c)(1) of the Internal Revenue Code of 1954.

(h) This section shall apply to returns filed after December 31, 1981.

SEC. 68. Section 18802.1 of the Revenue and Taxation Code is amended to read:

18802.1. (a) Any corporation allocating amounts as patronage dividends, rebates, or refunds (whether in cash, merchandise, capital stock, revolving fund certificates, retain certificates, certificates of indebtedness, letters of advice, or in some other manner that discloses to each patron the amount of such dividend, refund, or rebate) shall render a correct return, which shall contain or be verified by a written declaration that it is made under the penalties of perjury, stating (A) the name and address of each patron to whom it has made such allocations amounting to one hundred dollars ($100) or more during the calendar year, and (B) the amount of such allocations to each patron. If required by the Franchise Tax Board, any such corporation shall render a correct return, which shall contain or be verified by a written declaration that it is under penalties of perjury, of all patronage dividends, rebates, or refunds made during the calendar year to its patrons. This section shall not apply in the case of any corporation exempt from tax under Article 1 of Chapter 4 of the Bank and Corporation Tax Law.

(b) Every cooperative making a return under subdivision (a) shall furnish to each person whose name is set forth in that return a written statement showing both of the following:

(1) The name and address of the cooperative making that return.

(2) The amount of the allocations to the person as shown on that return.

(c) The written statement required under subdivision (b) shall be furnished (either in person or in a separate mailing by first-class mail) to the person on or before January 31 of the year following the calendar year for which the return under subdivision (a) was made, and shall be in the form which the Franchise Tax Board may prescribe.

SEC. 69. Section 18802.6 is added to the Revenue and Taxation Code, to read:

18802.6. (a) The Franchise Tax Board may require a copy of the federal information return to be filed with the Franchise Tax Board if a federal information return was required under any of the following:

(1) Section 6050H of the Internal Revenue Code, relating to mortgage interest received in trade or business from individuals.

(2) Section 6050I of the Internal Revenue Code, relating to cash received in trade or business.

(3) Section 6050J of the Internal Revenue Code, relating to foreclosures and abandonments of security.

(4) Section 6050K of the Internal Revenue Code, relating to exchanges of certain partnership interests.

(5) Section 6050L of the Internal Revenue Code, relating to certain dispositions of donated property.

(b) Every person making a return under subdivision (a) shall also furnish a statement to each person whose name is set forth in the return, if required to do so by the Internal Revenue Code.

(c) A transferor of a partnership interest shall be required to notify the partnership of that exchange in accordance with Section 6050K(c) of the Internal Revenue Code.

SEC. 70. Section 18803 of the Revenue and Taxation Code is amended to read:

18803. Such a return may be required, regardless of amounts, in the case of

(a) Payments of interest upon bonds, mortgages, deeds of trust, or other similar obligations of corporations; interest on deposits with persons carrying on the banking business; amounts (whether or not designated as interest) paid by a mutual savings bank, savings and loan association, building and loan association, cooperative bank, homestead association, credit union, or similar organization, in respect of deposits, investment certificates, or withdrawable or repurchasable shares; interest on amounts held by an insurance company under an agreement to pay interest thereon; and interest on deposits with stockbrokers and dealers in securities.

(b) Dividends paid by corporations.

(c) Collections of items (not payable in the United States) of interest upon the bonds of foreign countries and interest upon the bonds of and dividends from corporations created or organized in a

foreign country by persons undertaking as a matter of business or for profit the collection of foreign payments of such interest or dividends by means of coupons, checks, or bills of exchange.

(d) Every person required to make a return under this section shall also furnish a statement to each person whose name is set forth in the return, if required to do so by the Internal Revenue Code.

SEC. 71. Section 18803.1 is added to the Revenue and Taxation Code, to read:

18803.1. (a) Any person required to register a tax shelter with the Secretary of the Treasury under Section 6111 of the Internal Revenue Code shall, if that tax shelter is organized in California, be required to send a duplicate of that registration information to the Franchise Tax Board not later than the day on which the first offering for sale of interests in that tax shelter occurs.

(b) Any person required to register under Section 6111 of the Internal Revenue Code who receives a tax registration number from the Secretary of the Treasury shall, within 30 days after request by the Franchise Tax Board, file a statement of that registration number.

(c) Section 6111(b) of the Internal Revenue Code, relating to inclusion of tax shelter identification numbers on returns, shall be applicable.

(d) Notwithstanding other provisions of this section to the contrary, for tax shelters required to be registered with the Secretary of the Treasury prior to January 1, 1986, the person required to register shall be allowed until December 31, 1985, to comply with the requirements of this section.

SEC. 71.5. Section 18882 is added to the Revenue and Taxation Code, to read:

18882. For the purposes of this section, if any certified, treasurer's, or cashier's check (or other guaranteed draft), or any money order received in payment of any liability imposed under this part is not duly paid, the state shall, in addition to its right to exact payment from the party originally indebted therefor, have a perfected and enforceable state tax lien for the amount of that check (or draft) upon all the assets of the financial institution on which drawn or for the amount of that money order upon all the assets of the issuer thereof. The lien referred to in the preceding sentence shall be subject to Chapter 14 (commencing with Section 7150) of Division 7 of Title 1 of the Government Code.

SEC. 72. Section 19267 of the Revenue and Taxation Code is amended to read:

19267. (a) The trustee of a trust described in Section 401(a) of the Internal Revenue Code which is exempt from tax under Section 17631 to which contributions have been paid under a plan on behalf of any owner-employee (as defined in Section 401(c)(3) of the Internal Revenue Code), and each insurance company or other person which is the issuer of a contract purchased by such a trust, or purchased under a plan described in Section 403(a) of the Internal

Revenue Code, contributions for which have been paid on behalf of any owner-employee, shall file such returns (in such form and at such times), keep such records, make such identification of contracts and funds (and accounts within such funds), and supply such information, as the Franchise Tax Board shall by forms or regulations prescribe.

(b) Every individual on whose behalf contributions have been paid as an owner-employee (as defined in Section 401(c)(3) of the Internal Revenue Code)—

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

(2) To an insurance company or other person under a plan described in Section 403(a) of the Internal Revenue Code,

shall furnish the trustee, insurance company, or other person, as the case may be, such information at such times and in such form and manner as the Franchise Tax Board shall prescribe by forms or regulations.

SEC. 73. Section 19269 of the Revenue and Taxation Code is amended to read:

19269. (a) The rate established under this section (referred to in other code sections as "the adjusted annual rate") shall be the adjusted rate established by the Franchise Tax Board under subdivision (b).

(b) (1) If the adjusted prime rate charged by banks (rounded to the nearest full percent)—

(A) During the six-month period ending on September 30 of any calendar year, or

(B) During the six-month period ending on March 31 of any calendar year,

differs from the interest rate in effect under this section on either one of those dates, respectively, then the Franchise Tax Board shall establish, within 60 days after the close of the applicable six-month period, an adjusted rate of interest equal to that adjusted prime rate

(2) Any adjusted rate of interest established under paragraph (1) shall become effective—

(A) On January 1 of the succeeding year in the case of an adjustment attributable to subparagraph (A) of paragraph (1).

(B) On July 1 of the same year in the case of an adjustment attributable to subparagraph (B) of paragraph (1).

(3) For the period from the effective date of this section to December 31, 1982, inclusive, the adjusted rate of interest for the purpose of subdivision (a) shall be 18 percent per annum.

(4) For the period beginning March 1, 1983, until June 30, 1983, inclusive, the adjusted rate of interest for the purpose of subdivision (a) shall be 16 percent per annum.

(c) For purposes of subdivision (b), the term "adjusted prime rate charged by banks" means the average predominant prime rate quoted by commercial banks to large businesses, as determined by the Board of Governors of the Federal Reserve System.

(d) (1) For purposes of this part, Part 11 (commencing with Section 23001), and any other provision of law referencing this method of computation, in computing the amount of any interest required to be paid by the state or by the taxpayer, or any other amount determined by reference to that amount of interest, that interest and that amount shall be compounded daily.

(2) Paragraph (1) shall not apply for purposes of computing the amount of any addition to tax under Section 18682 or 25951.

(3) This subdivision shall apply to interest accruing after June 30, 1983.

As of June 30, 1983, all taxes, assessed penalties, or additions to tax, and interest (whether or not assessed) shall be added together to determine the amount to be carried over on which daily interest shall be charged in accordance with this subdivision.

SEC. 74. Section 19271 is added to the Revenue and Taxation Code, to read:

19271. If the Secretary of the Treasury has, under the authority of Section 330(c) of Title 31 of the United States Code:

(a) Assessed a penalty under Section 6701(a) of the Internal Revenue Code, and

(b) Provided that appraisals by an appraiser shall not have any probative effect in any administrative proceeding before the Department of the Treasury or the Internal Revenue Service, and

(c) Barred that appraiser from presenting evidence or testimony in that proceeding,

then appraisals by that person shall be presumed to have no probative effect in any administrative proceeding before the State Board of Equalization or the Franchise Tax Board.

SEC. 75. Section 19275 is added to the Revenue and Taxation Code, to read:

19275. On or before January 1, 1989, the Franchise Tax Board shall submit to the Legislature a report on the usefulness of, the costs of processing and storing, and the alternatives to, the copies of federal information returns required to be filed under Sections 18802.6 and 18803.1.

SEC. 76. Section 19289.5 of the Revenue and Taxation Code is amended to read:

19289.5. The Franchise Tax Board shall publish on or before December 31, 1978, and each December 31 thereafter, information on the amount of tax paid by individual taxpayers with high total incomes. Total income for this purpose is to be calculated and set forth by adding to adjusted gross income any items of tax preference excluded from, or deducted in arriving at, adjusted gross income, and by subtracting any investment expenses incurred in the production of that income to the extent of the investment income.

These data are to include the number of those individuals with total income over two hundred thousand dollars ($200,000) who owe no state income tax (after credits) and the deductions, exclusions, or credits used by them to avoid tax.

SEC. 77. Section 19290 of the Revenue and Taxation Code is repealed.

SEC. 78. Section 19411 of the Revenue and Taxation Code is amended to read:

19411. Any individual required to supply information to his or her employer under Section 13040, 13041, or 13042 of the Unemployment Insurance Code, who willfully supplies false or fraudulent information, or who willfully fails to supply information thereunder which would require an increase in the tax to be withheld under Section 13020 of the Unemployment Insurance Code, shall, in addition to any other penalty otherwise provided by law, upon conviction thereof, be fined not more than one thousand dollars ($1,000), or imprisoned not more than one year, or both.

SEC. 79. Section 19419 of the Revenue and Taxation Code is amended to read:

19419. (a) A civil action in the name of the State of California to enjoin any person from further engaging in conduct subject to penalty under Section 19415 (relating to the penalty for promoting abusive tax shelters, etc.) or Section 19416 (relating to penalty for aiding and abetting understatement of tax liability) may be commenced at the request of the Franchise Tax Board. Any action under this section shall be brought in accordance with the provisions of Section 19407. The court may exercise its jurisdiction over that action separate and apart from any other action brought by the State of California against that person.

(b) In any action under subdivision (a), the court may enjoin the person from engaging in the conduct or in any other activity subject to penalty under Section 19415 or 19416, if the court finds both of the following:

(1) That the person has engaged in any conduct subject to penalty under Section 19415 (relating to penalty for promoting abusive tax shelters, etc.) or Section 19416 (relating to penalty for aiding and abetting understatement of tax liability).

(2) That injunctive relief is appropriate to prevent recurrence of that conduct.

SEC. 80. Section 23043.5 is added to the Revenue and Taxation Code, to read:

23043.5. For purposes of this part, in determining the amount of gain or loss (or deemed gain or loss) with respect to any property, Section 7701(g) of the Internal Revenue Code, relating to nonrecourse indebtedness, shall apply.

SEC. 81. Section 23045 is added to the Revenue and Taxation Code, to read:

23045. For purposes of this part, the term "life insurance contract" has the same meaning given that term by Section 7702 of the Internal Revenue Code.

SEC. 82. Section 23046 is added to the Revenue and Taxation Code, to read:

23046. The determination of whether there is a collective bar-

gaining agreement shall be made in accordance with Section 7701(a)(46) of the Internal Revenue Code.

SEC. 83. Section 23047 is added to the Revenue and Taxation Code, to read:

23047. The treatment of certain contracts for providing services, etc., shall be determined in accordance with Section 7701(e) of the Internal Revenue Code.

SEC. 84. Section 23051.5 of the Revenue and Taxation Code is amended to read:

23051.5. (a) Unless otherwise specifically provided, the term "Internal Revenue Code" or "Internal Revenue Code of 1954," for purposes of this part, means Title 26 of the United States Code, including all amendments thereto, in effect on the specified date for the applicable taxable year as defined in subdivision (a) of Section 17024.5, except that for purposes of this part, "income year" shall be substituted for "taxable year" throughout that section.

(b) The provisions contained in Sections 41 to 44, inclusive, and 172 of the Tax Reform Act of 1984 (Public Law 98-369), relating to treatment of debt instruments, shall not be applicable.

SEC. 85. Section 23704.4 is added to the Revenue and Taxation Code, to read:

23704.4. For purposes of Section 23701d and paragraph (2) of subdivision (b) of Section 24359, the term "educational purposes" includes the providing of care of children away from their home if both of the following are satisfied:

(1) Substantially all of the care provided by the organization is for the purposes of enabling individuals to be gainfully employed.

(2) The services provided by the organization are available to the general public.

SEC. 86. Section 23705 is added to the Revenue and Taxation Code, to read:

23705. (a) (1) An organization described in Section 23701i (voluntary employee's beneficiary associations) or 23701q (qualified group legal service plans) which is part of a plan of an employer shall not be exempt from tax under Section 23701, unless that plan meets the requirements of Section 505(b) of the Internal Revenue Code.

(2) Paragraph (1) shall not apply to any organization described in Section 505(a)(2) of the Internal Revenue Code.

(b) A copy of any notice filed with the Secretary of the Treasury, pursuant to Section 505(c) of the Internal Revenue Code, relating to application for tax-exempt status, shall be filed at the same time and in the same manner with the Franchise Tax Board.

SEC. 87. Section 23706 is added to the Revenue and Taxation Code, to read:

23706. Any exemption from the bank and corporation franchise tax under Chapter 2 (commencing with Section 23101) or the corporation income tax under Chapter 3 (commencing with Section 23501), granted by any California statute on or after January 1, 1985, for an organization which is an instrumentality of this state, shall be

provided for in this part of the code.

SEC. 88. Section 23732 of the Revenue and Taxation Code is amended to read:

23732. (a) (1) Except as otherwise provided in this subdivision, the term "unrelated business taxable income" means the gross income derived by any organization from any unrelated trade or business (as defined in Section 23734) regularly carried on by it, less the deductions allowed by this article which are directly connected with the carrying on of such trade or business, both computed with the modifications provided in subdivision (b).

(2) (A) In the case of an organization described in Section 23701g, 23701i, 23701n, or 23701q the term "unrelated business taxable income" means the gross income (excluding any exempt function income), less the deductions allowed by this article which are directly connected with the production of the gross income (excluding function income), both computed with the modifications provided in paragraphs (9), (10), and (11) of subdivision (b).

(B) For purposes of subparagraph (A), the term "exempt function income" means the gross income from dues, fees, charges, or similar amounts paid by members of the organization as consideration for providing such members or their dependents or guests goods, facilities, or services in furtherance of the purposes constituting the basis for the exemption of the organization to which such income is paid. Such term also means all income (other than an amount equal to the gross income derived from any unrelated trade or business regularly carried on by such organization computed as if the organization were subject to paragraph (1)), which is set aside—

(i) For a purpose specified in Section 170(c)(4) of the Internal Revenue Code, or

(ii) In the case of an organization described in Section 23701i, 23701n, or 23701q to provide for the payment of life, sick, accident, or other benefits, including reasonable costs of administration directly connected with a purpose described in clause (i) or (ii).

If during the taxable year, an amount which is attributable to income so set aside is used for a purpose other than that described in clause (i) or (ii), such amount shall be included, under subparagraph (A), in unrelated business taxable income for the taxable year.

(C) If property used directly in the performance of the exempt function of an organization described in Section 23701g, 23701i, 23701n, or 23701q is sold by such organization, and within a period beginning one year before the date of such sale, and ending three years after such date, other property is purchased and used by such organization directly in the performance of its exempt function, gain (if any) from such sale shall be recognized only to the extent that such organization's sales price of the old property exceeds the organization's cost of purchasing the other property. For purposes of this subparagraph, the destruction in whole or in part, theft, seizure, requisition, or condemnation of property, shall be treated as the sale of such property and rules similar to the rules provided by subsec-

tions (b), (c), (e), and (j) of Section 1034 of the Internal Revenue Code shall apply.

(D) (i) In the case of any organization described in Section 23701i, 23701n, or 23701q, a set-aside for any purpose specified in clause (ii) of subparagraph (B) may be taken into account under subparagraph (B) only to the extent that the set-aside does not result in an amount of assets set aside for that purpose in excess of the account limit determined under Section 419A(c) of the Internal Revenue Code for the income year (not taking into account any reserve described in Section 419A(c)(2)(A) of the Internal Revenue Code for postretirement medical benefits).

(ii) No set-aside for assets used in the provision of benefit described in clause (ii) of subparagraph (B) shall be taken into account.

(iii) (I) Clause (i) shall not apply to any income attributable to an existing reserve for postretirement medical or life insurance benefits.

(II) For purposes of subclause (I), "existing reserve for postretirement medical or life insurance benefit" means the amount of assets set aside as of the close of the last plan year ending before July 18, 1984, for purposes of postretirement medical benefits or life insurance benefits to be provided to covered employees.

(III) All payments during plan years ending on or after July 18, 1984, of postretirement medical benefits or life insurance benefits shall be charged against the reserve referred to in subclause (II). Except to the extent provided in regulations prescribed by the Franchise Tax Board, all plans of an employer shall be treated as one plan for purposes of the preceding sentence.

(iv) This paragraph shall not apply to any organization if substantially all of the contributions to that organization are made by employers who were exempt from tax under this chapter throughout the five income year period ending with the income year in which the contributions are made.

(3) If a corporation exempt under Section 23701h—

(A) Pays any amount of its net income for a taxable year to an organization (parent) exempt from taxation under Section 23701 or 17631 (or in case of an organization located outside the state the exemption may be under Section 501(a) of the Internal Revenue Code) or which would pay such amount but for the fact that the expenses of collecting its income exceeded its income, and

(B) Such corporation and such organization file a consolidated federal return for the year and furnish a copy of the consolidated return with its return, such corporation shall be treated, for the purposes of the tax imposed by Section 23731, as being organized and operated for the same purposes as such organization in addition to the purposes described in Section 23701h.

(b) The modifications referred to in subdivision (a) are the following:

(1) There shall be excluded all dividends, interest, and annuities, and all deductions directly connected with such income.

(2) There shall be excluded all royalties (including overriding royalties) whether measured by production or by gross or taxable income from the property, and all deductions directly connected with such income.

(3) In the case of rents—

(A) Except as provided in subparagraph (B), there shall be excluded—

(i) All rents from real property, and

(ii) All rents from personal property leased with such real property, if the rents attributable to such personal property are an incidental amount of the total rents received or accrued under the lease, determined at the time the personal property is placed in service.

(B) Subparagraph (A) shall not apply—

(i) If more than 50 percent of the total rent received or accrued under the lease is attributable to personal property described in subparagraph (A) (ii), or

(ii) If the determination of the amount of such rent depends in whole or in part on the income or profits derived by any person from the property leased (other than an amount based on a fixed percentage or percentages of receipts or sales).

(C) There shall be excluded all deductions directly connected with rents excluded under subparagraph (A).

(4) Notwithstanding paragraph (1), (2), (3), or (5), in case of debt-financed property (as defined in Section 23735) there shall be included, as an item of gross income derived from an unrelated trade or business, the amount ascertained under paragraph (1) of subdivision (a) of Section 23735, and there shall be allowed, as a deduction, the amount ascertained under paragraph (2) of subdivision (a) of Section 23735.

(5) There shall be excluded all gains or losses from the sale, exchange or other disposition of property other than—

(A) Stock in trade or other property of a kind which would properly be includable in inventory if on hand at the close of the taxable year, or

(B) Property held primarily for sale to customers in the ordinary course of the trade or business.

This paragraph shall not apply with respect to the cutting of timber which is considered, on the application of Section 17711, as a sale or exchange of such timber.

(6) There shall be excluded all income derived from research for (A) the United States, or any of its agencies or instrumentalities, or (B) any state or political subdivision thereof; and there shall be excluded all deductions directly connected with such income.

(7) In the case of a college, university, or hospital, there shall be excluded all income derived from research performed for any person, and all deductions directly connected with such income.

(8) In the case of an organization operated primarily for purposes of carrying on fundamental research the results of which are freely available to the general public, there shall be excluded all income

derived from research performed for any person, and all deductions directly connected with such income.

(9) In the case of any organization (other than a trust) subject to tax under Section 23731, the deduction allowed by Section 24357 (relating to charitable, etc., contributions and gifts) shall be allowed (whether or not directly connected with the carrying on of the trade or business), but shall not exceed 5 percent of the unrelated business taxable income computed without the benefit of this paragraph.

(10) In the case of any trust subject to taxation under Section 23731 or subdivision (a) of Section 17651, the deduction allowed by Section 170 of the Internal Revenue Code (relating to charitable, etc., contributions and gifts) shall be allowed (whether or not directly connected with the carrying on of the trade or business) and for such purpose a distribution made by the trust to a beneficiary described in Section 170 of the Internal Revenue Code shall be considered a gift or contribution. The deduction allowed by this paragraph shall be allowed with the limitations prescribed in Section 17241 determined with reference to the unrelated business taxable income computed without the benefit of this paragraph (in lieu of with reference to adjusted gross income).

(11) There shall also be allowed a specific deduction of one thousand dollars ($1,000). In the case of a diocese, province of a religious order, or a convention or association of churches, there shall be allowed, with respect to each parish, individual church, district, or other local unit, a specific deduction equal to the lower of—

(A) One thousand dollars ($1,000), or

(B) The gross income derived from any unrelated trade or business regularly carried on by such local unit.

(12) In the case of an organization which is described in Section 23701a, there shall be excluded all income used to establish, maintain, or operate a retirement home, hospital, or other similar facility for the exclusive use and benefit of the aged and infirm members of such an organization, which is derived from agricultural pursuits conducted on ground contiguous to the retirement home, hospital, or similar facility and further provided that such income does not provide more than 75 percent of the cost of maintaining and operating the retirement home, hospital, or similar facility; and there shall be excluded all deductions directly connected with such income.

(13) Notwithstanding paragraph (1), (2), or (3), amounts of interest, annuities, royalties, and rents derived from any organization (in this paragraph called the controlled organization) of which the organization deriving such amounts (in this paragraph called the controlling organization) has control (as defined in Section 24564) shall be included as an item of gross income (whether or not the activity from which such amounts are derived represents a trade or business or is regularly carried on) in an amount which bears the same ratio as—

(A) (i) In the case of a controlled organization which is not exempt from taxation under Section 23701 or 17631, the excess of

the amount of taxable income of the controlled organization over the amount of such organization's taxable income which if derived directly by the controlling organization would not be unrelated business taxable income, or

(ii) In the case of a controlled organization which is exempt from taxation under Section 23701 or 17631, the amount of unrelated business taxable income of the controlled organization, bears to

(B) The taxable income of the controlled organization (determined in the case of a controlled organization to which subparagraph (A) (ii) applies as if it were not an organization exempt from taxation under Section 23701 or 17631), but not less than the amount determined in clause (i) or (ii), as the case may be, of subparagraph (A),

both amounts computed without regard to amounts paid directly or indirectly to the controlling organization. There shall be allowed all deductions directly connected with amounts included in gross income under the preceding sentence.

SEC. 89. Section 23735 of the Revenue and Taxation Code is amended to read:

23735. (a) In computing under Section 23732 the unrelated business taxable income for any taxable year—

(1) There shall be included with respect to each debt-financed property as an item of gross income derived from an unrelated trade or business an amount which is the same percentage (but not in excess of 100 percent) of the total gross income derived during the taxable year from or on account of such property as (A) the average acquisition indebtedness (as defined in subdivision (C) (7) for the taxable year with respect to the property is of (B) the average amount (determined under regulations prescribed by the Franchise Tax Board) of the adjusted basis of such property during the period it is held by the organization during such taxable year.

(2) There shall be allowed with respect to each debt-financed property, as a deduction to be taken into account in computing unrelated debt-financed income, an amount determined by applying (except as provided in the last sentence of this paragraph) the percentage derived under paragraph (1) to the sum determined under paragraph (3). The percentage derived under this paragraph shall not be applied with respect to the deduction of any capital loss resulting from the carryover of net capital losses under Section 18152.

(3) The sum referred to in paragraph (2) is the sum of the deductions under this part which are directly connected with the debt-financed property or the income therefrom, except that if the debt-financed property is of a character which is subject to the allowance for depreciation provided in Section 24349, the allowance shall be computed only by use of the straight line method.

(b) For the purpose of this section—

(1) The term "debt-financed property" means any property which is held to produce income and with respect to which there is an acquisition indebtedness (as defined in subdivision (c)) at any

time during the taxable year (or, if the property was disposed of during the taxable year, with respect to which there was an acquisition indebtedness at any time during the 12-month period ending with the date of such disposition), except that such term does not include—

(A) (i) Any property substantially all the use of which is substantially related (aside from the need of the organization for income or funds) to the exercise or performance by such organization of its charitable, educational, or other purpose of function constituting the basis for its exemption under Section 17631 or 23701; or

(ii) Any property to which clause (i) does not apply, to the extent that its use is so substantially related;

(B) Except in the case of income excluded under paragraph (5) of subdivision (b) of Section 23732, any property to the extent that the income from such property is taken into account in computing the gross income of any unrelated trade or business;

(C) Any property to the extent that the income from such property is excluded by reason of the provisions of paragraph (6), (7), or (8) of subdivision (b) of Section 23732 in computing the gross income of any unrelated trade or business; or

(D) Any property to the extent that it is used in any trade or business described in subdivision (a), (b), or (c) of Section 23734. For purposes of subparagraph (A), substantially all the use of a property shall be considered to be substantially related to the exercise or performance by an organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under Section 17631 or 23701 if such property is real property subject to a lease to a medical clinic entered into primarily for purposes which are substantially related (aside from the need of such organization for income or funds or the use it makes of the rents derived) to the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under Section 17631 or 23701.

(2) For purposes of applying subparagraphs (A), (C), and (D) of paragraph (1), the use of any property by an exempt organization which is related to an organization shall be treated as use by such organization.

(3) (A) If an organization acquires real property for the principal purpose of using the land (commencing within 10 years of the time of acquisition) in the manner described in subparagraph (A) of paragraph (1) and at the time of acquisition the property is in the neighborhood of other property owned by the organization which is used in such manner, the real property acquired for such future use shall not be treated as debt-financed property so long as the organization does not abandon its intent to so use the land within the 10-year period. The preceding sentence shall not apply for any period after the expiration of the 10-year period, and shall apply after the first five years of the 10-year period only if the organization establishes to the satisfaction of the Franchise Tax Board that it is reasonably certain

that the land will be used in the described manner before the expiration of the 10-year period.

(B) If the first sentence of subparagraph (A) is inapplicable only because—

(i) The acquired land is not in the neighborhood referred to in subparagraph (A), or

(ii) The organization (for the period after the first five years of the 10-year period) is unable to establish to the satisfaction of the Franchise Tax Board that it is reasonably certain that the land will be used in the manner described in subparagraph (A) of paragraph (1) before the expiration of the 10-year period, but the land is converted to such use by the organization within the 10-year period,

the real property (subject to the provisions of subparagraph (D)) shall not be treated as debt-financed property for any period before such conversion. For purposes of this subparagraph, land shall not be treated as used in the manner described in subparagraph (A) of paragraph (1) by reason of the use made of any structure which was on the land when acquired by the organization.

(C) Subparagraphs (A) and (B)—

(i) Shall apply with respect to any structure on the land when acquired by the organization, or to the land occupied by the structure, only if (and so long as) the intended future use of the land in the manner described in subparagraph (A) of paragraph (1) requires that the structure be demolished or removed in order to use the land in such manner;

(ii) Shall not apply to structures erected on the land after the acquisition of the land; and

(iii) Shall not apply to property subject to a lease which is an "Article 2" lease as (defined in Section 23735a).

(D) If an organization for any taxable year has not used land in the manner to satisfy the actual use condition of subparagraph (B) before the time prescribed by law (including extensions thereof) for filing the return for such taxable year, the tax for such year shall be computed without regard to the application of subparagraph (B), but if and when such use condition is satisfied, the provisions of subparagraph (B) shall then be applied to such taxable year. If the actual use condition of subparagraph (B) is satisfied for any taxable year after such time for filing the return, and if credit or refund of any overpayment for the taxable year resulting from the satisfaction of such use condition is prevented at the close of the taxable year in which the use condition is satisfied, by the operation of any law or rule of law (other than Section 25781, relating to closing agreements and compromises), credit or refund of such overpayment may nevertheless be allowed or made if claim therefor is filed before the expiration of one year after the close of the taxable year in which the use condition is satisfied.

(E) In applying this paragraph to a church or convention or association of churches, in lieu of the 10-year period referred to in

subparagraphs (A) and (B) a 15-year period shall be applied, and subparagraph (A) and clause (ii) of subparagraph (B) shall apply whether or not the acquired land meets the neighborhood test.

(c) For the purpose of this section—

(1) The term "acquisition indebtedness" means with respect to any debt-financed property, the unpaid amount of—

(A) The indebtedness incurred by the organization in acquiring or improving such property;

(B) The indebtedness incurred before the acquisition or improvement of such property if such indebtedness would not have been incurred but for such acquisition or improvement; and

(C) The indebtedness incurred after the acquisition or improvement of such property if such indebtedness would not have been incurred but for such acquisition or improvement and the incurrence of such indebtedness was reasonably foreseeable at the time of such acquisition or improvement;

except that in case of any taxable year beginning before January 1, 1972, any indebtedness incurred before June 28, 1966 shall not be taken into account unless such indebtedness constitutes Article 2 lease indebtedness (as defined in Section 23735a).

(2) Property acquired subject to mortgage shall be subject to the following rules, exceptions, and limitations.

(A) Where property (no matter how acquired) is acquired subject to a mortgage or other similar lien, the amount of the indebtedness secured by such mortgage or lien shall be considered as an indebtedness of the organization incurred in acquiring such property even though the organization did not assume or agree to pay such indebtedness.

(B) Where property subject to a mortgage is acquired by an organization by bequest or devise, the indebtedness secured by the mortgage shall not be treated as acquisition indebtedness during a period of 10 years following the date of the acquisition. If an organization acquires property by gift subject to a mortgage which was placed on the property more than five years before the gift, which property was held by the donor more than five years before the gift, the indebtedness secured in such mortgage shall not be treated as acquisition indebtedness during a period of 10 years following the date of such gift. This subparagraph shall not apply if the organization, in order to acquire the equity in the property by bequest, devise, or gift, assumes and agrees to pay the indebtedness secured by the mortgage, or if the organization makes any payment for the equity in the property owned by the decedent or the donor.

(C) Where state law provides that—

(i) A lien for taxes, or

(ii) A lien for assessments, made by a state or a political subdivision thereof attaches to property prior to the time when such taxes or assessments become due and payable, then such lien shall be treated as similar to a mortgage (within the meaning of subparagraph (A)) but only after such taxes or assessments become due and

payable and the organization has had an opportunity to pay such taxes or assessments in accordance with state law.

(3) An extension, renewal, or refinancing of an obligation evidencing a preexisting indebtedness shall not be treated, for the purpose of this section, as the creation of a new indebtedness.

(4) The term "acquisition indebtedness" does not include indebtedness the incurrence of which is inherent in the performance or exercise of the purpose or function constituting the basis of the organization's exemption.

(5) The term "acquisition indebtedness" does not include an obligation to pay an annuity which—

(A) Is the sole consideration (other than a mortgage to which subparagraph (B) of paragraph (2) applies) issued in exchange for property if, at the time of the exchange, the value of the annuity is less than 90 percent of the value of the property received in the exchange,

(B) Is payable over the life of one individual in being at the time the annuity is issued or over the lives of two individuals in being at such time, and

(C) Is payable under a contract which—

(i) Does not guarantee a minimum amount of payments or specify a maximum amount of payments, and

(ii) Does not provide for any adjustment of the amount of the annuity payments by reference to the income received from the transferred property or any other property.

(6) The term "acquisition indebtedness" does not include an obligation, to the extent that it is insured by the Federal Housing Administration, to finance the purchase, rehabilitation, or construction of housing for low- and moderate-income persons.

(7) The term "average acquisition indebtedness" for any taxable year with respect to a debt-financed property means the average amount determined under regulations prescribed by the Franchise Tax Board, of the acquisition indebtedness during the period the property is held by the organization during the taxable year, except that for the purpose of computing the percentage of any gain or loss to be taken into account on a sale or other disposition of debt-financed property, such term means the highest amount of the acquisition indebtedness with respect to such property during the 12-month period ending with the date of the sale or other disposition.

(8) (A) Except as provided in subparagraph (B), "acquisition indebtedness" does not, for purposes of this section, include indebtedness incurred by a qualified organization in acquiring or improving any real property.

(B) The provisions of subparagraph (A) shall not apply in any case in which—

(i) The price for the acquisition or improvement is not a fixed amount determined as of the date of the acquisition or the completion of the improvement;

(ii) The amount of any indebtedness or any other amount payable

with respect to that indebtedness, or the time for making any payment of any such amount, is dependent, in whole or in part, upon any revenue, income, or profits derived from that real property;

(iii) The real property is at any time after the acquisition leased by the qualified organization to the person selling that property to that organization or to any person who bears a relationship described in Section 267(b) or 707(b) of the Internal Revenue Code to that person;

(iv) The real property is acquired by a qualified trust from, or is at any time after the acquisition leased by that trust to, any person who—

(I) Bears a relationship which is described in subparagraph (C), (E), or (G) of Section 4975(e)(2) of the Internal Revenue Code to any plan with respect to which that trust was formed, or

(II) Bears a relationship which is described in subparagraph (F) or (H) of Section 4975(e)(2) of the Internal Revenue Code to any person described in subclause (I);

(v) Any person described in clause (iii) or (iv) who provides the qualified organization with financing in connection with the acquisition or improvement; or

(vi) The real property is held by a partnership unless the partnership meets the requirements of clauses (i) to (v), inclusive, and unless—

(I) All of the partners of the partnership are qualified organizations, or

(II) Each allocation to a partner of the partnership which is a qualified organization is a qualified allocation within the meaning of Section 168(j)(9) of the Internal Revenue Code.

For purposes of subclause (I) of clause (vi), an organization shall not be treated as a qualified organization if any income of that organization would be unrelated business taxable income (determined without regard to this paragraph).

(C) For purposes of this paragraph, "qualified organization" means either of the following:

(i) An organization described in Section 170(b)(1)(A)(ii) of the Internal Revenue Code and its affiliated support organizations described in subdivision (a) of Section 23709.

(ii) Any trust which constitutes a qualified trust under Section 401 of the Internal Revenue Code.

(D) Rules similar to the rules of clause (vi) of subparagraph (B) shall also apply in the case of any pass-thru entity other than a partnership and in the case of tiered partnerships and other entities.

(d) If the property was acquired in a complete or partial liquidation of a corporation in exchange for its stock, the basis of the property, for the purposes of this article, shall be the same as it would be in the hands of the transferor corporation, increased by the amount of gain recognized to the transferor corporation upon such distribution and by the amount of any gain to the organization which was included, on account of such distribution, in its unrelated business

taxable income under subdivision (a).

(e) Where debt-financed property is held for purposes described in subparagraph (A), (B), (C), or (D) of paragraph (1) of subdivision (b) as well as for other purposes, proper allocation shall be made with respect to basis, indebtedness, and income and deductions. The allocations and exclusions required by this section shall be made in accordance with regulations prescribed by the Franchise Tax Board to the extent proper to carry out the purposes of this section.

(f) The Franchise Tax Board shall prescribe any regulations which may be necessary or appropriate to carry out the purposes of this section, including regulations to prevent the circumvention of any provision of this section through the use of segregated asset accounts.

SEC. 90. Section 24275 is added to the Revenue and Taxation Code, to read:

24275. In the case of any taxpayer who is required to include the amount of any nuclear decommissioning costs in the taxpayer's cost of service for ratemaking purposes, there shall be includable in the gross income of that taxpayer the amount so included for any income year.

SEC. 91. Section 24307 of the Revenue and Taxation Code is amended to read:

24307. (a) (1) Gross income does not include any amount which (but for this subdivision) would be includable in gross income by reason of the discharge (in whole or in part) of indebtedness of the taxpayer if—

(A) The discharge occurs when the taxpayer is insolvent, or

(B) The indebtedness discharged is qualified business indebtedness.

(2) Subparagraph (B) of paragraph (1) shall not apply to a discharge to the extent that the taxpayer is insolvent.

(3) In the case of a discharge to which subparagraph (A) of paragraph (1) applies, the amount excluded under subparagraph (A) of paragraph (1) shall not exceed the amount by which the taxpayer is insolvent.

(b) (1) The amount excluded from gross income under subparagraph (A) of paragraph (1) of subdivision (a) shall, except as provided in paragraph (5), be applied to reduce the basis of the property of the taxpayer.

(2) For provisions for making the reduction see Section 24918.

(3) The reduction shall be one dollar ($1) for each dollar excluded by subdivision (a).

(4) The reduction shall be made after the determination of the tax imposed by this chapter for the income year of the discharge.

(5) (A) The taxpayer may elect to apply any portion of the reduction referred to in paragraph (1) to the reduction under Section 24918 of the basis of the depreciable property of the taxpayer.

(B) The amount to which an election under this subdivision applies shall not exceed the aggregate adjusted bases of the depreciable property held by the taxpayer as of the beginning of the income year

following the income year in which the discharge occurs.

(C) Paragraph (1) shall not apply to any amount to which an election under this subdivision applies.

(c) (1) In the case of a discharge of qualified business indebtedness, the amount excluded from gross income under subparagraph (B) of paragraph (1) of subdivision (a) shall be applied to reduce the basis of the depreciable property of the taxpayer.

(2) For provisions for making the reduction see Section 24918.

(3) The amount excluded under subparagraph (B) of paragraph (1) of subdivision (a) shall not exceed the aggregate adjusted bases of the depreciable property held by the taxpayer as of the beginning of the income year following the income year in which the discharge occurs (determined after any reductions under subdivision (b)).

(d) (1) For purposes of this section, the term "indebtedness of the taxpayer" means any indebtedness—

(A) For which the taxpayer is liable, or

(B) Subject to which the taxpayer holds property.

(2) For purposes of this section, the term "insolvent" means the excess of liabilities over the fair market value of assets. With respect to any discharge, whether or not the taxpayer is insolvent, and the amount by which the taxpayer is insolvent, shall be determined on the basis of the taxpayer's assets and liabilities immediately before the discharge.

(3) Indebtedness of the taxpayer shall be treated as qualified business indebtedness if (and only if)—

(A) The indebtedness was incurred or assumed—

(i) By a corporation, or

(ii) By an individual in connection with property used in his trade or business, and

(B) Such taxpayer makes an election under this paragraph with respect to such indebtedness.

(4) The term "depreciable property" has the same meaning as when used in Section 24918.

(5) In the case of a partnership, subdivisions (a), (b), and (c) shall be applied at the partner level.

(6) (A) An election under paragraph (3) of this subdivision or under paragraph (5) of subdivision (b) 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.

(B) An election referred to in subparagraph (A), once made, may be revoked only with the consent of the Franchise Tax Board.

(C) An election referred to in subparagraph (A) shall be made in such manner as the Franchise Tax Board may by regulations prescribe.

(7) For provision that no reduction is to be made in the basis of exempt property of an individual debtor, see Section 24918(c)(1).

(e) For purposes of this title—

(1) Except as otherwise provided in this section, there shall be no

insolvency exception from the general rule that gross income includes income from the discharge of indebtedness.

(2) No income shall be realized from the discharge of indebtedness to the extent that payment of the liability would have given rise to a deduction.

(3) The amount taken into account with respect to any discharge shall be properly adjusted for unamortized premium and unamortized discount with respect to the indebtedness discharged.

(4) (A) For purposes of determining income of the debtor from discharge of indebtedness, to the extent provided in regulations prescribed by the Franchise Tax Board, the acquisition of outstanding indebtedness by a person bearing a relationship to the debtor specified in Section 267(b) or 707(b) of the Internal Revenue Code from a person who does not bear such a relationship to the debtor shall be treated as the acquisition of such indebtedness by the debtor. Such regulations shall provide for such adjustments in the treatment of any subsequent transactions involving the indebtedness as may be appropriate by reason of the application of the preceding sentence.

(B) For purposes of this paragraph, Sections 267(b) and 707(b) of the Internal Revenue Code shall be applied as if Section 267(c)(4) of the Internal Revenue Code provided that the family of an individual consists of the individual's spouse, the individual's children, grandchildren, and parents, and any spouse of the individual's children or grandchildren.

(5) If—

(A) The debt of a purchaser of property to the seller of such property which arose out of the purchase of such property is reduced,

(B) Such reduction does not occur when the purchaser is insolvent, and

(C) But for this paragraph, such reduction would be treated as income to the purchaser from the discharge of indebtedness,

then such reduction shall be treated as a purchase price adjustment.

(6) For purposes of determining income of the debtor from discharge of indebtedness, if a debtor corporation acquires its indebtedness from a shareholder as a contribution to capital, such corporation shall be treated as having satisfied the indebtedness with an amount of money equal to the shareholder's adjusted basis in the indebtedness.

(7) (A) If a creditor acquires stock of a debtor corporation in satisfaction of such corporation's indebtedness—

(i) Such stock (and any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such stock) shall be treated as Section 1245 of the Internal Revenue Code property (as modified by Section 18170),

(ii) The aggregate amount allowed to the creditor—

(I) As deductions under subdivision (a) of Section 24348 (by reason of the worthlessness or partial worthlessness of the indebtedness), or

(II) As an ordinary loss on the exchange,

shall be treated as an amount allowed as a deduction for depreciation, and

(iii) An exchange of such stock qualifying under Section 354(a), 355(a), or 356(a) of the Internal Revenue Code shall be treated as an exchange to which Section 1245(b)(3) of the Internal Revenue Code applies.

The amount determined under clause (ii) shall be reduced by the amount (if any) included in the creditor's gross income on the exchange.

(B) In the case of a taxpayer to whom the portion of subdivision (a) of Section 24348 (relating to reserve for bad debts) applies, the amount determined under clause (ii) of subparagraph (A) shall be the aggregate charges to the reserve resulting from the worthlessness or partial worthlessness of the indebtedness.

(C) In the case of any creditor who computes his taxable income under the cash receipts and disbursements method, proper adjustment shall be made in the amount taken into account under clause (ii) of subparagraph (A) for any amount which was not included in the creditor's gross income but which would have been included in such gross income if such indebtedness had been satisfied in full.

(D) For purposes of this paragraph, stock of a corporation in control (within the meaning of Section 24564) of the debtor corporation shall be treated as stock of the debtor corporation.

(E) For purposes of this paragraph, the term "debtor corporation" includes a successor corporation.

(F) Under regulations prescribed by the Franchise Tax Board, rules similar to the rules of subparagraphs (A), (B), (C), (D), and (E) of this paragraph shall apply with respect to the indebtedness of a partnership.

(8) For purposes of determining income of the debtor from discharge of indebtedness, the stock for debt exception shall not apply—

(A) To the issuance of nominal or token shares, or

(B) With respect to an unsecured creditor, where the ratio of the value of the stock received by such unsecured creditor to the amount of his indebtedness canceled or exchanged for stock in the workout is less than 50 percent of a similar ratio computed for all unsecured creditors participating in the workout.

(9) Any amount included in gross income by reason of the discharge of indebtedness shall not be taken into account for purposes of Section 24413.

(10) (A) For purposes of determining income of a debtor from discharge of indebtedness, if a debtor corporation transfers stock to a creditor in satisfaction of its indebtedness, that corporation shall be treated as having satisfied the indebtedness with an amount of money equal to the fair market value of the stock.

(B) Subparagraph (A) shall not apply to the extent the debtor is insolvent.

(C) (i) Subparagraph (A) shall not apply to any transfer of stock

in a qualified workout.

(ii) For purposes of clause (i), "qualified workout" means any plan under which stock is transferred to creditors in satisfaction of indebtedness if all of the following occur:

(I) Because of cash flow and credit problems, the corporation making that transfer will have trouble in meeting liabilities coming due during the next 12 months to such an extent that there is a substantial threat of involuntary proceedings relating to insolvency or bankruptcy.

(II) That corporation in any report to its shareholders for the period during which that transfer occurs includes a statement that such corporation believes it meets the requirement of subclause (I) and that it is availing itself of the workout provisions of this subparagraph.

(III) The holders of more than 50 percent of the total indebtedness of the corporation approve that plan.

(IV) At least 25 percent of the total indebtedness of the corporation is extinguished by transfers pursuant to that plan.

SEC. 92. Section 24308 is added to the Revenue and Taxation Code, to read:

24308. Section 1078 of Public Law 98-369 (Tax Reform Act of 1984), relating to exclusions from gross income of payments from the United States Forest Service as a result of restricting motorized traffic in the Boundary Waters Canoe Area, shall apply, with the following exceptions:

(a) Section 1078(f)(2) of that act shall not be applicable.

(b) This section shall be effective only for payments made in income years beginning on or after January 1, 1985.

SEC. 93. Section 24310 of the Revenue and Taxation Code is repealed.

SEC. 94. Section 24310 is added to the Revenue and Taxation Code, to read:

24310. Section 111 of the Internal Revenue Code, relating to recovery of tax benefit items, shall apply except that:

(a) Reference to "this chapter" shall mean "this part."

(b) Sections 111(b)(3) and 111(d) of the Internal Revenue Code shall not be applicable.

SEC. 95. Section 24330 of the Revenue and Taxation Code, as amended by Chapter 1102 of the Statutes of 1983, is repealed.

SEC. 95.5. Section 24330 is added to the Revenue and Taxation Code, to read:

24330. (a) There shall be allowed as a credit against the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) an amount equal to 10 percent of the amount of wages paid to each employee who is certified by the Employment Development Department to meet the requirements of Section 328 of the Unemployment Insurance Code.

The credit under this section shall not apply to an individual unless, on or before the day on which that individual begins work for

the employer, the employer:

(1) Has received a certification from the Employment Development Department, or

(2) Has requested in writing that certification from the Employment Development Department.

For the purposes of this subdivision, if on or before the day on which the individual begins work for the employer, the individual has received from the Employment Development Department a written preliminary determination that he or she is a member of a targeted group, then the requirement of paragraph (1) or (2) shall be applicable before the fifth day on which the individual begins work for the employer.

(b) The credit under this section shall not apply to wages paid in excess of three thousand dollars ($3,000) during an income year by a taxpayer to the same individual. With respect to each qualified employee, the aggregate credit under this section shall not exceed six hundred dollars ($600).

(c) The credit under this section shall not apply to wages paid to an individual:

(1) Who is a dependent, as described in Section 17056, of an individual who owns, directly or indirectly, more than 50 percent in value of the outstanding stock of the taxpayer (as determined pursuant to Section 24429); or

(2) Who is a dependent of an individual described in paragraph (1).

(d) The credit under this section shall not apply to wages paid to an individual if, prior to the hiring date of that individual, that individual had been employed by the employer at any time during which he or she was not certified by the Employment Development Department to meet the requirements of Section 328 of the Unemployment Insurance Code.

(e) If the certification of an employee has been revoked pursuant to subdivision (c) of Section 328 of the Unemployment Insurance Code, the credit under this section shall not apply to wages paid by the employer after the date on which notice of revocation is received by the employer.

(f) The credit under this section shall be in addition to any deduction under this part to which the taxpayer may be entitled, if any.

(g) The credit provided by this section shall be applied to wages paid to each qualifying employee during the 24-month period beginning on the date such employee begins working for the taxpayer.

(h) The term "wages" shall not include any amounts paid or incurred to an individual who begins work for the employer after December 31, 1985.

(i) (1) A taxpayer may elect to have this section not apply for any income year.

(2) An election under paragraph (1) for any income year may be made (or revoked) at any time before the expiration of the four-year period beginning on the last date prescribed by law for filing the

return for that income year (determined without regard to extensions).

(3) An election under paragraph (1) (or revocation thereof) shall be made in any manner which the Franchise Tax Board may prescribe by regulations.

(j) (1) Under regulations prescribed by the Franchise Tax Board, in the case of a successor employer referred to in Section 3306(b)(1) of the Internal Revenue Code, the determination of the amount of the credit under this section with respect to wages paid by that successor employer shall be made in the same manner as if those wages were paid by the predecessor employer referred to in that section.

(2) No credit shall be determined under this section with respect to remuneration paid by an employer to an employee for services performed by that employee for another person unless the amount reasonably expected to be received by the employer for those services from that other person exceeds the remuneration paid by the employer to that employee for those services.

SEC. 96. Section 24344.5 of the Revenue and Taxation Code is amended to read:

24344.5. (a) A deduction, determined in accordance with Section 163(e) of the Internal Revenue Code, shall be allowed to the issuer of an original issue discount bond.

(b) For income years beginning on or after January 1, 1985, and before the income year in which the debt obligation matures or is sold, exchanged, or otherwise disposed, the amount deductible under this part shall be the same as the amount deductible on the federal tax return.

(c) The difference between the amount deductible on the federal tax return and the amount allowable under this part, with respect to obligations issued after June 9, 1984, for income years beginning before January 1, 1985, shall be allowed as a deduction in the income year in which the debt obligation matures or is sold, exchanged, or otherwise disposed.

SEC. 97. Section 24349 of the Revenue and Taxation Code is amended to read:

24349. (a) There shall be allowed as a depreciation deduction a reasonable allowance for the exhaustion, wear, and tear (including a reasonable allowance for obsolescence)—

(1) Of property used in the trade or business; or

(2) Of property held for the production of income.

(b) For income years ending after December 31, 1958, the term "reasonable allowance" as used in subdivision (a) shall include (but shall not be limited to) an allowance computed in accordance with regulations prescribed by the Franchise Tax Board, under any of the following methods:

(1) The straight line method.

(2) The declining balance method, using a rate not exceeding twice the rate which would have been used had the annual allowance

been computed under the method described in paragraph (1).

(3) The sum of the years-digits method.

(4) Any other consistent method productive of an annual allowance which, when added to all allowances for the period commencing with the taxpayer's use of the property and including the income year, does not, during the first two-thirds of the useful life of the property, exceed the total of such allowances which would have been used had such allowances been computed under the method described in paragraph (2).

Nothing in this subsection shall be construed to limit or reduce an allowance otherwise allowable under subdivision (a).

(c) 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.

(d) The following shall apply in determining the amount allowable under this section:

(1) The provisions of Section 168(f) (13) of the Internal Revenue Code, relating to motor vehicle operating leases, shall be applicable.

(2) For property leased to governments and other tax-exempt entities, the deduction shall be limited to the amount determined under Section 168(f) of the Internal Revenue Code.

(e) 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 24349 of the Revenue and Taxation Code, added by Section 10 of Chapter 700 of the Statutes of 1982, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 98. Section 24349.1 is added to the Revenue and Taxation Code, to read:

24349.1. (a) Section 280F of the Internal Revenue Code, as amended by Public Law 99-44, relating to limitations on depreciation for luxury automobiles and certain property used for personal purposes, shall be applicable.

(b) Except as provided in subdivision (c), Section 280F of the Internal Revenue Code shall be modified as follows:

(1) The terms "deduction" or "recovery deduction," relating to amounts allowable as a deduction under Section 168 of the Internal Revenue Code, mean the amount allowable as a deduction for depreciation under this part.

(2) The term "recovery period," relating to property under Section 168 of the Internal Revenue Code, means the class life asset depreciation range allowable under this part.

(3) The provisions of Section 280F of the Internal Revenue Code which relate to the investment tax credit shall not be applicable for purposes of this part.

(c) Paragraphs (1) and (2) of subdivision (b) shall not apply to

Section 24356.2 property.

SEC. 99. 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, 1987, under the straight line method using a useful life of 60 months and no salvage value. This method shall be in lieu of any other method of computing the depreciation deduction under subdivision (a) of Section 24349, and in lieu of any deduction for amortization, for these 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, 1987, and rehabilitation expenditures incurred with respect to low-income rental housing the rehabilitation of which has begun before January 1, 1987, shall be deemed incurred before January 1, 1987.

(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. 100. Section 24356.2 of the Revenue and Taxation Code is amended to read:

24356.2. (a) A taxpayer may elect to treat the cost of any Section 24356.2 property as a deduction under the terms of the accelerated cost recovery system of Section 168 of the Internal Revenue Code for the income year in which the Section 24356.2 property is placed in service.

(b) (1) An election under this section for any income year shall—

(A) Specify the items of Section 24356.2 property to which the election applies and the portion of the cost of each of those items which is to be taken into account under subdivision (a), and

(B) Be made on the taxpayer's return of the tax imposed by this part for the income year.

(2) Any election made under this section, and any specification contained in that election, may not be revoked except with the consent of the Franchise Tax Board.

(c) (1) For purposes of this section, "Section 24356.2 property" means any recovery property which is Section 38 property under the terms of the Internal Revenue Code and which is acquired by purchase for exclusive use in a trade or business conducted within an

enterprise zone designated pursuant to Section 7073 of the Government Code.

(2) For purposes of paragraph (1), "purchase" means any acquisition of property, but only if—

(A) The property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under Section 267(a) through 267(c) of the Internal Revenue Code (but, in applying Sections 267(b) and 267(c) of the Internal Revenue Code for purposes of this section, Section 267(c) of the Internal Revenue Code shall be treated as providing that the family of an individual shall include only his spouse, ancestors, and lineal descendants),

(B) The property is not acquired by one component member of an affiliated group from another component member of the same affiliated group, and

(C) The basis of the property in the hands of the person acquiring it is not determined in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired.

(3) For purposes of this section, the cost of property does not include so much of the basis of that property as is determined by reference to the basis of other property held at any time by the person acquiring that property.

(4) This section shall not apply to any Section 24356.2 property purchased by any person described in Section 46(e)(3) of the Internal Revenue Code unless the credit under Section 38 of the Internal Revenue Code is allowable with respect to that person for that property (determined without regard to this section).

(5) For purposes of subdivision (b)—

(A) All component members of an affiliated group shall be treated as one taxpayer, and

(B) The taxpayer shall apportion the dollar limitation contained in subdivision (b) among the component members of the affiliated group in whatever manner the board shall by regulations prescribe.

(6) For purposes of paragraphs (2) and (5), "affiliated group" has the meaning assigned to it by Section 1504 of the Internal Revenue Code, except that, for these purposes, the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in Section 1504(a) of the Internal Revenue Code.

(7) For purposes of this section, sound recordings shall be treated as recovery property only if so elected under Section 48(r) of the Internal Revenue Code.

(d) For purposes of this section, "taxpayer" means a taxpayer who conducts a trade or business within an enterprise zone designated pursuant to Section 7073 of the Government Code.

(e) Any taxpayer who elects to be subject to this section shall not be entitled to claim additional depreciation pursuant to Section 24356 with respect to any property which constitutes Section 24356.2 property.

(f) The aggregate cost which may be taken into account under subdivision (a) for any income year shall not exceed the following applicable amount for the income year of the designation of an enterprise zone and income years thereafter:

	The applicable amount is:
Income year of designation	$ 5,000
1st income year thereafter	5,000
2nd income year thereafter	7,500
3rd income year thereafter	7,500
Each income year thereafter	10,000

(g) This section shall apply only to property which is used exclusively in a trade or business conducted within an enterprise zone.

SEC. 101. Section 24357.7 of the Revenue and Taxation Code is amended to read:

24357.7. (a) For purposes of paragraph (3) of subdivision (b) of Section 24357.2, the term "qualified conservation contribution" means a contribution—

(1) Of a qualified real property interest,

(2) To a qualified organization,

(3) Exclusively for conservation purposes.

(A) For purposes of this subdivision, the term "qualified real property interest" means any of the following interests in real property:

(i) The entire interest of the donor other than a qualified mineral interest.

(ii) A remainder interest.

(iii) A restriction (granted in perpetuity) on the use which may be made of the real property.

(b) For purposes of subdivision (a), the term "qualified organization" means an organization which:

(1) Is described in subdivision (a) or (b) of Section 24359, or

(2) Is described in Section 23701(d), and—

(A) Meets the requirements of Section 509(a)(2) of the Internal Revenue Code, or

(B) Meets the requirements of Section 509(a)(3) of the Internal Revenue Code and is controlled by an organization described in paragraph (1) or in subparagraph (A).

(c) For purposes of this section, the term "conservation purpose" means any of the following:

(1) The preservation of land areas for outdoor recreation by, or the education of, the general public.

(2) The protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem.

(3) The preservation of open space (including farm land and forest land) where such preservation is for any of the following:

(A) For the scenic enjoyment of the general public.

(B) Pursuant to a clearly delineated federal, state, or local governmental conservation policy, and will yield a significant public benefit.

(C) The preservation of an historically important land area or a certified historic structure.

(d) The term "certified structure" means any building, structure, or land area which:

(1) Is listed in the National Register, or

(2) Is located in a registered historic district (as defined in Section 191 (d) (2) of the Internal Revenue Code and is certified by the Secretary of the Interior to the secretary as being of historic significance to the district.

A building, structure, or land area satisfies the preceding sentence if it satisfies such sentence either at the time of the transfer or on the due date (including extensions) for filing the transferor's return under this chapter for the taxable year in which the transfer is made.

(e) For purposes of this section:

(1) A contribution shall not be treated as exclusively for conservation purposes unless the conservation purpose is protected in perpetuity.

(2) (A) Except as provided in subparagraph (B), in the case of a contribution of any interest where there is a retention of a qualified mineral interest, this subdivision shall not be treated as met if at any time there may be extraction or removal of minerals by any surface mining method.

(B) With respect to any contribution of property in which the ownership of the surface estate and mineral interests were separated before June 13, 1976, and remain so separated, paragraph (1) shall be treated as met if the probability of surface mining occurring on that property is so remote as to be negligible.

(f) For purposes of this section, the term "qualified mineral interest" means—

(1) Subsurface oil, gas, or other minerals; and

(2) The right to access to those minerals.

SEC. 101.5. Section 24371.5 of the Revenue and Taxation Code is amended to read:

24371.5. It is the intent of the Legislature that child development services be established in locations which make it convenient for eligible families who are employed, to be employed or who are enrolled in employment training programs.

Owners of places of employment who establish facilities which are licensed pursuant to Chapter 3.4 (commencing with Section 1596.70) and Chapter 3.5 (commencing with Section 1596.90) of Division 2 of the Health and Safety Code 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 such facilities under the straight line method using a useful life of 60 months and no salvage value. Such method shall be in lieu of any other method of computing the depreciation deduction

under subdivision (a) of Section 24349 and shall be allowed only for that part of facilities which are licensed pursuant to Chapter 3.4 (commencing with Section 1596.70) and Chapter 3.5 (commencing with Section 1596.90) of Division 2 of the Health and Safety Code.

SEC. 102. Section 24373.5 of the Revenue and Taxation Code is amended to read:

24373.5. (a) Except as otherwise provided in this section, a deduction for real property construction period interest and taxes shall only be allowed in accordance with Section 189 of the Internal Revenue Code.

(b) The exceptions provided in Section 189(d) of the Internal Revenue Code shall also include any residential real property acquired, constructed, or carried by any bank or corporation.

SEC. 103. Section 24383 of the Revenue and Taxation Code is amended to read:

24383. (a) Every taxpayer, at the election of the taxpayer, shall be entitled to a deduction of the cost of repairing or remodeling any building, facility or transportation vehicle owned or leased by the taxpayer at the time of such repairing or remodeling, in order to permit handicapped or elderly individuals to enter or leave such building, facility or transportation vehicle, to increase the access handicapped or elderly individuals would have to such building, facility or transportation vehicle, or to allow handicapped or elderly individuals more effective use of the building, facility or transportation vehicle, provided that the repair or remodeling meets one or more standards established pursuant to Section 4450 or 4451 of the Government Code. In the absence of such state standards, those standards established by the Secretary of the Treasury of the United States with the concurrence of the Architectural and Transportation Barriers Compliance Board shall be used. The installation of emergency egress/safe area refuge systems shall be eligible for such deductions.

(b) The deduction authorized by this section shall be taken with respect to the income year in which such repairing or remodeling is completed.

(c) The deduction provided by this section with respect to any income year shall be in lieu of any deduction with respect to such repairing or remodeling relating to exhaustion, wear and tear or obsolescence. If, however, the costs of that repair or remodeling exceed the limit set forth in subdivision (g), the remaining balance may be charged to capital account.

(d) If any building, facility or transportation vehicle is owned by more than one person, a taxpayer may deduct a portion of the costs of such repairing or remodeling apportionate to the interest in such building, facility or transportation vehicle which is owned by the taxpayer.

(e) For purposes of this section, "building, facility or transportation vehicle" means a building, facility or transportation vehicle, or part thereof, which is intended to be used, and is actually used, by

the taxpayer or the general public, in the taxpayer's business or trade.

(f) For purposes of this section, "handicapped individual" means any individual who has a physical or mental disability (including, but not limited to, blindness or deafness) which for such individual constitutes or results in a functional limitation to employment, or who has any physical or mental impairment (including, but not limited to, a sight or hearing impairment) which substantially limits one or more major life activities of such individual, and "elderly individual" means an individual who is 65 years of age or older.

(g) The deduction authorized by this section shall not exceed thirty-five thousand dollars ($35,000) with respect to any taxpayer for any income year.

(h) The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the provisions of this section.

(i) This section shall apply to income years beginning after December 31, 1976.

(j) (1) The State Fire Marshal in cooperation with the Department of Rehabilitation and the Department of Aging shall adopt building standards and regulations for emergency egress/safe area refuge systems. The building standards and regulations shall include, but not be limited to, minimum requirements for safety, reliability, durability and usability. Emergency egress/safe area refuge systems that comply with the building standards and regulations adopted pursuant to this section shall be eligible for the deduction provided by this section.

(2) It is the intent of the Legislature that this section and the building standards adopted pursuant to this section do not supersede more restrictive building standards and regulations adopted by the state and local governments.

(k) "Emergency egress/safe area refuge system" shall include, but not be limited to, all of the following:

(1) A building floor divided into not less than two compartments by not less than one-hour fire-resistive construction. Each door opening in the construction shall be protected by a twenty minute fire-resistive assembly as defined in regulations of the State Fire Marshal. Duct openings shall be protected by single-blade or curtain-type fire dampers to restrict the passage of smoke or flame. The smaller of the compartmental areas shall be not less than one-fourth the floor area of the story. Each such compartment shall contain a stairway or elevator or other means of ready egress from the building.

(2) A fire alarm system defined in regulations by the State Fire Marshal.

(3) Use of existing exiting systems and warning devices when practical, including, but not limited to, stairways, elevators, and fire alarms.

(4) Accommodations for wheelchairs and all attached wheelchair equipment, as well as wheelchair occupants.

(5) Its own power source.

SEC. 104. Section 24414 of the Revenue and Taxation Code is repealed.

SEC. 105. Section 24414 is added to the Revenue and Taxation Code, to read:

24414. Deduction for startup expenditures shall be determined in accordance with Section 195 of the Internal Revenue Code, except that reference to Sections 163(a), 164, 165, and 174 of the Internal Revenue Code, relating to interest, taxes, losses, and research and experimental expenditures, shall instead refer to Sections 24344, 24345, 24347, and 24365, respectively.

SEC. 106. Section 24427 of the Revenue and Taxation Code is repealed.

SEC. 107. Section 24427 is added to the Revenue and Taxation Code, to read:

24427. Losses, expenses, and interest with respect to transactions between related taxpayers shall be determined in accordance with Section 267 of the Internal Revenue Code.

SEC. 108. Section 24428 of the Revenue and Taxation Code is repealed.

SEC. 109. Section 24429 of the Revenue and Taxation Code is repealed.

SEC. 110. Section 24430 of the Revenue and Taxation Code is repealed.

SEC. 111. Section 24431 of the Revenue and Taxation Code is amended to read:

24431. (a) If—

(1) Any person or persons acquire, or acquired on or after October 8, 1940, directly or indirectly, control of a corporation; or

(2) Any corporation acquires, or acquired on or after October 8, 1940, directly or indirectly, property of another corporation, not controlled, directly or indirectly, immediately before such acquisition, by such acquiring corporation or its stockholders, the basis of which property, in the hands of the acquiring corporation, is determined by reference to the basis in the hands of the transferor corporation;

and the principal purpose for which such acquisition was made is evasion or avoidance of tax under this part by securing the benefit of a deduction, credit, or other allowance which such person or corporation would not otherwise enjoy, then such deduction, credit, or other allowance shall not be allowed. For purposes of this subdivision, control means the ownership of stock possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote or at least 50 percent of the total value of shares of all classes of stock of the corporation.

(b) (1) If—

(A) There is a qualified stock purchase by a corporation of another corporation,

(B) An election is not made under Section 24519 with respect to that purchase,

(C) The acquired corporation is liquidated pursuant to a plan of liquidation adopted not more than two years after the acquisition date, and

(D) The principal purpose for that liquidation is the evasion or avoidance of tax under this part by securing the benefit of a deduction, credit, or other allowance which the acquiring corporation would not otherwise enjoy,

then the Franchise Tax Board may disallow that deduction, credit, or other allowance.

(2) For purposes of paragraph (1), the terms "qualified stock purchase" and "acquisition date" have the same respective meanings as when used in Section 24519.

(c) In any case to which subdivision (a) applies, the Franchise Tax Board may do any of the following:

(1) Allow as a deduction, credit, or allowance any part of any amount disallowed by that section, if it determines that such allowance will not result in the evasion or avoidance of tax under this part for which the acquisition was made.

(2) Distribute, apportion, or allocate gross income, and distribute, apportion, or allocate the deductions, credits, or allowances the benefit of which was sought to be secured, between or among the corporations, or properties, or parts thereof, involved, and to allow those deductions, credits, or allowances so distributed, apportioned, or allocated, but to give effect to that allowance only to the extent which it determines shall not result in the evasion or avoidance of tax under this part for which the acquisition was made.

(3) Exercise its powers, in part, under paragraph (1) and, in part, under paragraph (2).

SEC. 112. Section 24432 of the Revenue and Taxation Code is repealed.

SEC. 113. Section 24433 of the Revenue and Taxation Code is repealed.

SEC. 114. Section 24442 of the Revenue and Taxation Code is amended to read:

24442. In the case of the demolition of any structure—

(1) No deduction otherwise allowable under this part shall be allowed to the owner or lessee of such structure for—

(A) Any amount expended for such demolition, or

(B) Any loss sustained on account of such demolition; and

(2) Amounts described in paragraph (1) shall be treated as property chargeable to capital account with respect to the land on which the demolished structure was located.

SEC. 115. Section 24445.5 is added to the Revenue and Taxation Code, to read:

24445.5. (a) Except as provided in subdivision (b), no deduction or credit shall be allowed for any of the following:

(1) Under Section 24343 for any traveling expense (including meals and lodging while away from home).

(2) For any item with respect to an activity which is of a type

generally considered to constitute entertainment, amusement, or recreation, or with respect to a facility used in connection with such an activity.

(3) For any expense for gifts.

(4) For income years beginning after December 31, 1985, with respect to any listed property (as defined in Section 280F(d)(4) of the Internal Revenue Code, as modified by Section 24349.1).

(b) A deduction or credit shall be allowed for any expense or item specified in subdivision (a), if the taxpayer substantiates by adequate records or by sufficient evidence corroborating the taxpayer's own statement all of the following:

(1) The amount of the expense or other item.

(2) The time and place of the travel, entertainment, amusement, recreation, or use of the facility or property, or the date and description of the gift.

(3) The business purpose of the expense or other item.

(4) The business relationship to the taxpayer of persons entertained, using the facility or property, or receiving the gift.

(c) This section shall not apply to any qualified nonpersonal use vehicle as defined in subdivision (d).

(d) For purposes of this section, "qualified nonpersonal use vehicle" means any vehicle which, by reason of its nature, is not likely to be used more than a de minimus amount for personal purposes.

SEC. 116. Section 24454.2 is added to the Revenue and Taxation Code, to read:

24454.2. (a) Except to the extent otherwise provided in regulations, solely for purposes of determining the net income of any 20 percent corporate shareholder (and its adjusted basis in the stock of the distributing corporation), Sections 24484 to 24494, inclusive, shall be applied with respect to the distributing corporation as if it did not contain Section 24493 thereof.

(b) For purposes of this section, "20 percent corporate shareholder" means, with respect to any distribution, any corporation which owns (directly or through the application of Section 24497)—

(1) Stock in the corporation making the distribution possessing at least 20 percent of the total combined voting power of all classes of stock entitled to vote, or

(2) At least 20 percent of the value of all stock of the distributing corporation (except nonvoting stock which is limited and preferred as to dividends), but only, if but for this section, the distributee corporation would be entitled to a deduction under Section 24402 with respect to that distribution.

(c) The Franchise Tax Board shall prescribe any regulations which may be necessary or appropriate to carry out the purposes of this section.

SEC. 117. Section 24457 of the Revenue and Taxation Code is amended to read:

24457. (a) (1) For purposes of Section 24455, if:

(A) One or more persons are in control of each of two corpora-

tions, and

(B) In return for property, one of the corporations acquires stock in the other corporation from the person (or persons) so in control,

then (unless paragraph (2) applies) such property shall be treated as a distribution in redemption of the stock of the corporation acquiring such stock. In any such case, the stock so acquired shall be treated as having been transferred by the person from whom acquired, and as having been received by the corporation acquiring it, as a contribution to the capital of such corporation.

(2) For purposes of Section 24455, if:

(A) In return for property, one corporation acquires from a shareholder of another corporation stock in such other corporation, and

(B) The issuing corporation controls the acquiring corporation, then such property shall be treated as a distribution in redemption of the stock of the issuing corporation.

(b) (1) In the case of any acquisition of stock to which subdivision (a) of this section applies, determinations as to whether the acquisition is, by reason of subdivision (b) of Section 24455, to be treated as a distribution in part or full payment in exchange for the stock shall be made by reference to the stock of the issuing corporation. In applying subdivision (a) of Section 24497 (relating to constructive ownership of stock) with respect to subdivision (b) of Section 24455 for purposes of this paragraph, paragraph (2) of subdivision (a) of Section 24497 shall be applied without regard to the 50 percent limitation contained therein.

(2) In the case of any acquisition of stock to which subdivision (a) applies, the determination of the amount which is a dividend shall be made as if the property were distributed—

(A) By the acquiring corporation to the extent of its earnings and profits, and

(B) Then by the issuing corporation to the extent of its earnings and profits.

(3) (A) Except as otherwise provided in this paragraph, subdivision (a) (and not Section 24521 and not Sections 24540 and 24541 to the extent those provisions relate to Section 24521) shall apply to any property received in a distribution described in subdivision (a).

(B) (i) In the case of an acquisition described in Section 24521, subdivision (a) shall not apply to any liability—

(I) Assumed by the acquiring corporation, or

(II) To which the stock is subject, if that liability was incurred by the transferor to acquire the stock. For purposes of the preceding sentence, the term "stock" means stock referred to in subparagraph (B) of paragraph (1) or subparagraph (A) of paragraph (2) of subdivision (a).

(ii) For purposes of clause (i), an extension, renewal, or refinancing of a liability which meets the requirements of clause (i) shall be treated as meeting those requirements.

(iii) Clause (i) shall apply only to stock acquired by the transferor

from a person—

(I) None of whose stock is attributable to the transferor under Section 24497 (other than subdivision (d) thereof), or

(II) Who satisfies rules similar to the rules of paragraph (2) of subdivision (c) of Section 24455 with respect to both the acquiring and the issuing corporations (determined as if that person was a distributee of each such corporation)

(C) If—

(i) Pursuant to a plan, control of a bank is acquired and within two years after the date on which such control is acquired, stock constituting control of that bank is transferred to a BHC in connection with its formation,

(ii) Incident to the formation of the BHC there is a distribution of property described in subdivision (a), and

(iii) The shareholders of the BHC who receive distributions of that property do not have control of that BHC, then, subdivision (a) shall not apply to any securities received by a qualified minority shareholder incident to the formation of that BHC. For purposes of this subparagraph, any assumption of (or acquisition of stock subject to) a liability under subparagraph (B) shall not be treated as a distribution of property.

(D) For purposes of subparagraph (C) and this subparagraph—

(i) The term "qualified minority shareholder" means any shareholder who owns less than 10 percent (in value) of the stock of the BHC. For purposes of the preceding sentence, the rules of paragraph (3) of subdivision (c) shall apply.

(ii) The term "BHC" means a bank holding company (within the meaning of Section 2(a) of the federal Bank Holding Company Act of 1956).

(iii) In the case of a BHC which is formed before 1985, clause (i) of subparagraph (C) shall not apply.

(c) (1) For purposes of this section, control means the ownership of stock possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote, or at least 50 percent of the total value of shares of all classes of stock. If a person (or persons) is in control (within the meaning of the preceding sentence) of a corporation which in turn owns at least 50 percent of the total combined voting power of all stock entitled to vote of another corporation, or owns at least 50 percent of the total value of the shares of all classes of stock of another corporation, then such person (or persons) shall be treated as in control of such other corporation.

(2) For purposes of paragraph (1) of subdivision (a)—

(A) Where one or more persons in control of the issuing corporation transfers stock of that corporation in exchange for stock of the acquiring corporation, the stock of the acquiring corporation received shall be taken into account in determining whether that person is or those persons are in control of the acquiring corporation.

(B) Where two or more persons in control of the issuing corporation transfer stock of that corporation to the acquiring corporation

and after the transfer, the transferors are in control of the acquiring corporation, the person or persons in control of each corporation shall include each of the persons who transfer stock.

(3) (A) Subdivision (a) of Section 24497 (relating to the constructive ownership of stock) shall apply for purposes of determining control under this section.

(B) For purposes of subparagraph (A):

(i) Paragraph (3) of subdivision (b) of Section 24497 shall be applied by substituting "5 percent" for "50 percent" and

(ii) Paragraph (3) of subdivision (c) of Section 24497 shall be applied—

(I) By substituting "5 percent" for "50 percent," and

(II) In any case where that paragraph would not apply but for subclause (I), by considering a corporation as owning the stock (other than stock in that corporation) owned by or for any shareholder of that corporation in that proportion which the value of the stock which that shareholder owned in that corporation bears to the value of all stock in that corporation.

SEC. 118. Section 24466 of the Revenue and Taxation Code is amended to read:

24466. (a) For purposes of this chapter, the term "Section 24464 stock" means stock which meets the requirements of paragraph (1), (2), or (3) of this subdivision.

(1) Stock (other than common stock issued with respect to common stock) which was distributed to the shareholder selling or otherwise disposing of such stock if, by reason of subdivision (a) of Section 24463, any part of such distribution was not includable in the gross income of the shareholder.

(2) Stock which is not common stock and—

(A) Which was received, by the shareholder selling or otherwise disposing of such stock, in pursuance of a plan of reorganization (within the meaning of Section 24562), or in a distribution or exchange to which Section 24533 (or so much of Sections 24535 to 24539, inclusive, as relates to Section 24533) applied; and

(B) With respect to the receipt of which gain or loss to the shareholder was to any extent not recognized by reason of Chapter 10, but only to the extent that either the effect of the transaction was substantially the same as the receipt of a stock dividend, or the stock was received in exchange for Section 24464 stock.

For purposes of this article, a receipt of stock to which the foregoing provisions of this paragraph apply shall be treated as a distribution of stock.

(3) Except as otherwise provided in paragraph (2), stock the basis of which (in the hands of the shareholder selling or otherwise disposing of such stock) is determined by reference to the basis (in the hands of such shareholder or any other person) of Section 24464 stock.

(b) For purposes of this article, the term "Section 24464 stock" does not include any stock no part of the distribution of which would

have been a dividend at the time of the distribution if money had been distributed in lieu of the stock.

(c) The term "Section 24464 stock" also includes any stock which is not common stock acquired in an exchange to which Section 24521 applied if receipt of money (in lieu of stock) would have been treated as a dividend to any extent. Rules similar to the rules of paragraph (2) of subdivision (b) of Section 24457 shall apply —

(1) For purposes of the preceding sentence, and

(2) For purposes of determining the application of this section to any subsequent disposition of stock which is Section 24464 stock by reason of an exchange described in the preceding sentence.

(d) For purposes of subparagraph (B) of paragraph (2) of subdivision (a) of Section 24466 and subdivision (c) of this section, Section 24497 shall apply. For purposes of applying the preceding sentence to subdivision (c), the rules of subparagraph (B) of paragraph (3) of subdivision (c) of Section 24457 shall apply.

SEC. 119. Section 24483.5 of the Revenue and Taxation Code is amended to read:

24483.5. (a) (1) If—

(A) A corporation distributes property (other than an obligation of such corporation) to a shareholder in a distribution to which Article 1 (commencing with Section 24451) applies, and

(B) The fair market value of such property exceeds its adjusted basis (in the hands of the distributing corporation), then gain shall be recognized to the distributing corporation in an amount equal to such excess as if the property distributed had been sold at the time of the distribution. This section shall be applied after the application of Sections 24482 (relating to LIFO inventory) and 24483 (relating to liabilities in excess of basis).

(2) Paragraph (1) shall not apply to any of the following:

(A) A distribution which is made with respect to qualified stock if either of the following occurs:

(i) Paragraph (4) of subdivision (b) of Section 24455 applies to that distribution.

(ii) That distribution is a qualified dividend.

(B) A distribution before December 1, 1974, of stock of a corporation substantially all of the assets of which the distributing corporation (or a corporation which is a member of the same affiliated group (as defined in Section 23361) as the distributing corporation) held on November 30, 1969, if such assets constitute a trade or business which has been actively conducted throughout the one-year period ending on the date of the distribution.

(C) A distribution of stock or an obligation of a corporation if the requirements of paragraph (2) of subdivision (c) are met with respect to the distribution.

(D) A distribution to the extent that Section 303 of the Internal Revenue Code (relating to distributions in redemption of stock to pay death taxes) applies to such distribution.

(E) A distribution by a corporation to which Section 23701m (re-

lating to and including regulated investment companies) applies, if such distribution is in redemption of the stock upon the demand of the shareholder.

(b) (1) Except as to distributions described in paragraphs (2) and (3), this section and the amendments to paragraph (2) of subdivision (a) of Section 24452, subdivision (b) of Section 24454, and subdivision (c) of Section 24486 at the 1971 First Extraordinary Session of the Legislature shall apply with respect to distributions after December 31, 1970.

(2) A distribution by a corporation of property (held on December 1, 1969, by the distributing corporation or a corporation which was a wholly owned subsidiary of the distributing corporation on such date) in redemption of stock outstanding on November 30, 1969, which is redeemed and canceled before July 31, 1971, if—

(A) Such redemption is pursuant to a resolution adopted before November 1, 1969, by the board of directors authorizing the redemption of a specific amount of stock constituting more than 10 percent of the outstanding stock of the corporation at the time of the adoption of such resolution; and

(B) More than 40 percent of the stock authorized to be redeemed pursuant to such resolution was redeemed before December 30, 1969, and more than one-half of the stock so redeemed was redeemed with property other than money.

(3) A distribution of stock by a corporation organized prior to December 1, 1969, for the principal purpose of providing an equity participation plan for employees of the corporation whose stock is being distributed (hereinafter referred to as the "employer corporation") if—

(A) The stock being distributed was owned by the distributing corporation on November 30, 1969.

(B) The stock being redeemed was acquired before January 1, 1973, pursuant to such equity participation plan by the shareholder presenting such stock for redemption (or by a predecessor of such shareholder),

(C) The employment of the shareholder presenting the stock for redemption (or the predecessor of such shareholder) by the employer corporation commenced before January 1, 1971,

(D) At least 90 percent in value of the assets of the distributing corporation on November 30, 1969, consisted of common stock of the employer corporation, and

(E) At least 50 percent of the outstanding voting stock of the employer corporation is owned by the distributing corporation at any time within the nine-year period ending one year before the date of such distribution.

(c) For purposes of this section:

(1) (A) The term "qualified stock" means stock held by a person (other than a corporation) who at all times during the lesser of—

(i) The five-year period ending on the date of distribution, or

(ii) The period during which the distributing corporation (or a

predecessor corporation) was in existence,
held at least 10 percent in value of the outstanding stock of the distributing corporation (or predecessor corporation).

(B) Section 24497 shall apply in determining ownership of stock under subparagraph (A); except that, in applying paragraph (1) of subdivision (a) of Section 24497, the term "family" includes any individual described in subdivision (d) of Section 24429 and any spouse of any such individual.

(C) In the case of a partnership, trust, or estate, both of the following shall apply:

(i) The determination of whether subparagraph (A) is satisfied shall be made at the partner or beneficiary level (rather than at the entity level).

(ii) The distribution shall be treated as made directly to the partners or beneficiaries in proportion to their respective interests in the entity.

(2) (A) A distribution of stock or an obligation of a corporation (hereinafter in this paragraph referred to as the "controlled corporation") meets the requirements of this paragraph if—

(i) That distribution is made with respect to qualified stock,

(ii) Substantially all of the assets of the controlled corporation consists of the assets of one or more qualified businesses,

(iii) No substantial part of the controlled corporation's nonbusiness assets were acquired from the distributing corporation, in a transaction to which Section 24521 applied or as a contribution to capital, within the five-year period ending on the date of the distribution, and

(iv) More than 50 percent in value of the outstanding stock of the controlled corporation is distributed by the distributing corporation with respect to qualified stock.

(B) For purposes of subparagraph (A)—

(i) The term "qualified business" means any trade or business which—

(I) Was actively conducted throughout the five-year period ending on the date of the distribution, and

(II) Was not acquired by any person within that period in a transaction in which gain or loss was recognized in whole or in part.

(ii) The term "nonbusiness asset" means any asset not used in the active conduct of a trade or business.

(3) "Qualified dividend" means any distribution of property to a shareholder other than a corporation if all of the following are met:

(A) That distribution is a dividend.

(B) That property was used by the distributing corporation in the active conduct of a qualified business (as defined in paragraph (2)).

(C) That property is not property described in paragraph (1) or (4) of Section 1221 of the Internal Revenue Code.

SEC. 120. Section 24488 of the Revenue and Taxation Code is repealed.

SEC. 121. Section 24491 of the Revenue and Taxation Code is

amended to read:

24491. (a) In the case of a distribution or exchange to which Section 24533 (or so much of Sections 24535 to 24539, inclusive, as relate to Section 24533) applies, proper allocation with respect to the earnings and profits of the distributing corporation and the controlled corporation (or corporations) shall be made under regulations prescribed by the Franchise Tax Board.

(b) In the case of a reorganization described in paragraph (3) or (4) of subdivision (a) of Section 24562, proper allocation with respect to the earnings and profits of the acquired corporation shall, under regulations prescribed by the Franchise Tax Board, be made between the acquiring corporation and the acquired corporation (or any corporation which had control of the acquired corporation before the reorganization).

SEC. 122. Section 24491.1 of the Revenue and Taxation Code is amended to read:

24491.1. (a) For purposes of computing the earnings and profits of a corporation for any income year beginning after June 30, 1972, the allowance for depreciation (and amortization, if any) shall be deemed to be the amount which would be allowable for such year if the straight line method of depreciation had been used for each income year beginning after June 30, 1972.

(b) If for any income year beginning after June 30, 1972, a method of depreciation was used by the taxpayer which the Franchise Tax Board has determined results in a reasonable allowance under subdivision (a) of Section 24349, and which is not—

(1) A declining balance method,

(2) The sum of the years-digits method, or

(3) Any other method allowable solely by reason of the application of paragraph (4) of subdivision (b) of Section 24349, or paragraph (3) of subdivision (a) of Section 24354.1,

then the adjustment to earnings and profits for depreciation for such year shall be determined under the method so used (in lieu of under the straight line method).

(c) (1) Except as provided in paragraphs (2) and (3), in the case of any deduction allowed for recovery property (within the meaning of Section 168 of the Internal Revenue Code), the adjustment to earnings and profits for depreciation for any income year shall be the amount determined under the straight line method (using a half year convention in the case of property other than the 18-year real property and low-income housing and without regard to salvage value) and using a recovery period determined in accordance with the following table:

In the case of:	The applicable recovery period is:
3-year property	5 years
5-year property	12 years
10-year property	25 years

18-year real property and low-income housing	40 years
15-year public utility property	35 years

For purposes of this paragraph, no adjustment shall be allowed in the year of disposition (except with respect to 18-year real property and low-income housing), and rules similar to the rules under the next to the last sentence of Section 168(b)(2)(A) and Section 168(b)(2)(B) of the Internal Revenue Code shall apply.

(2) For purposes of computing the earnings and profits of a corporation, any amount deductible under Section 24356.3 shall be allowed as a deduction ratably over the period of five years (beginning with the year for which that amount is deductible under Section 24356.3).

(3) In any case where a different recovery percentage is elected under Section 168(b)(3) or 168(f)(2)(C) of the Internal Revenue Code based on a recovery period longer than the recovery period provided in paragraph (1), the adjustment to earnings and profits shall be based on that longer period under rules similar to those provided in paragraph (1).

SEC. 123. Section 24493 is added to the Revenue and Taxation Code, to read:

24493. For purposes of computing the earnings and profits of a corporation, the following adjustments shall be made:

(a) (1) In the case of any amount paid or incurred for construction period carrying charges both of the following shall apply:

(A) No deduction shall be allowed with respect to that amount.

(B) The basis of the property with respect to which those charges are allocable shall be increased by that amount.

(2) For purposes of this subdivision, "construction period carrying charges" means all of the following:

(A) Interest paid or accrued on indebtedness incurred or continued to acquire, construct, or carry property.

(B) Property taxes.

(C) Similar carrying charges, to the extent that interest, taxes, or charges are attributable to the construction period for that property and would be allowable as a deduction in determining net income under this chapter for the income year in which paid or incurred (determined without regard to Section 24373.5).

(3) The term "construction period" has the meaning given that term by Section 189(e)(2) of the Internal Revenue Code (determined without regard to any real property limitation).

(b) (1) Any amount allowable as a deduction under Section 24423 in determining net income (other than costs incurred in connection with a nonproductive well)—

(i) Shall be capitalized, and

(ii) Shall be allowed as a deduction ratably over the 60-month period beginning with the month in which the production from the well begins.

(2) Any amount allowable as a deduction under subdivision (a) of

Section 24836 or 24837.5 in determining taxable income—

(i) Shall be capitalized, and

(ii) Shall be allowed as a deduction ratably over the 120-month period beginning with the later of—

(I) The month in which production from the deposit begins, or

(II) The month in which the amount was paid or incurred.

(c) Sections 24364, 24368.1, and 24407 to 24409, inclusive, shall not apply.

(d) In the case of any distribution of property by a corporation described in Section 24483.5, earnings and profits shall be increased by the amount of any gain which would be includable in gross income for any income year if paragraph (2) of subdivision (a) of Section 24483.5 did not apply.

(e) Earning and profits shall be increased or decreased by the amount of any increase or decrease in the LIFO recapture amount (determined under paragraph (3) of subdivision (b) of Section 24511) as of the close of each income year, except that any decrease below the LIFO recapture amount as of the close of the income year preceding the first income year to which this paragraph applies to the taxpayer shall be taken into account only to the extent provided in regulations prescribed by the Franchise Tax Board.

(f) In the case of any installment sale, earnings and profits shall be computed as if the corporation did not use the installment method.

(g) In the case of a taxpayer who uses the completed contract method of accounting, earnings and profits shall be computed as if that taxpayer used the percentage of completion method of accounting.

(h) If a corporation distributes amounts in a redemption to which subdivision (a) of Section 24455 applies, the part of that distribution which is properly chargeable to earnings and profits shall be an amount which is not in excess of the ratable share of the earnings and profits of that corporation accumulated after February 28, 1913, attributable to the stock so redeemed.

SEC. 124. Section 24519 of the Revenue and Taxation Code is amended to read:

24519. (a) For purposes of this part, if a purchasing corporation makes an election under this section (or is treated under subdivision (e) as having made such an election), then, in the case of any qualified stock purchase, the target corporation—

(1) Shall be treated as having sold all of its assets at the close of the acquisition date at fair market value in a single transaction to which Sections 24512, 24513, 24514, and 24516, apply, and

(2) Shall be treated as a new corporation which purchased all of the assets referred to in paragraph (1) as of the beginning of the day after the acquisition date.

(b) (1) For purposes of subdivision (a), the assets of the target corporation shall be treated as purchased for an amount equal to the sum of the following:

(A) The grossed-up basis of the purchasing corporation's recently

purchased stock, and

(B) The basis of the purchased corporation's nonrecently purchased stock.

(2) The amount described in paragraph (1) shall be adjusted under regulations prescribed by the Franchise Tax Board for liabilities of the target corporation and other relevant items.

(3) (A) Under regulations prescribed by the Franchise Tax Board, the basis of the purchasing corporation's nonrecently purchased stock shall be the basis amount determined under subparagraph (B) of this paragraph if the purchasing corporation makes an election to recognize gain as if that stock were sold on the acquisition date for an amount equal to the basis amount determined under subparagraph (B).

(B) For purposes of subparagraph (A), the basis amount determined under this subparagraph shall be an amount equal to the grossed-up basis determined under subparagraph (A) of paragraph (1) multiplied by a fraction—

(i) The numerator of which is the percentage of stock (by value) in the target corporation attributable to the purchasing corporation s nonrecently purchased stock, and

(ii) The denominator of which is 100 percent minus the percentage referred to in clause (i).

(4) For purposes of paragraph (1), the grossed-up basis shall be an amount equal to the basis of the corporation's recently purchased stock, multiplied by a fraction—

(A) The numerator of which is 100 percent, minus the percentage of stock (by value) in the target corporation attributable to the purchasing corporation's nonrecently purchased stock, and

(B) The denominator of which is the percentage of stock (by value) in the target corporation attributable to the purchasing corporation's recently purchased stock.

(5) The amount determined under paragraphs (1) and (2) shall be allocated among the assets of the target corporation under regulations prescribed by the Franchise Tax Board.

(6) For purposes of this subdivision:

(A) "Recently purchased stock" means any stock in the target corporation which is held by the purchasing corporation on the acquisition date and which was purchased by that corporation during the 12-month acquisition period.

(B) "Nonrecently purchased stock" means any stock in the target corporation which is held by the purchasing corporation on the acquisition date and which is not recently purchased stock.

(c) (1) If during the one-year period beginning on the acquisition date the maximum percentage (by value) of stock in the target corporation held by the purchasing corporation is less than 100 percent, then in applying Sections 24512, 24513, 24514, and 24516 for purposes of paragraph (1) of subdivision (a), the nonrecognition of gain or loss shall be limited to an amount determined by applying that maximum percentage to that gain or loss. The preceding sen-

tence shall not apply if the target corporation is liquidated during that one-year period and Section 24503 does not apply to that liquidation.

(2) If, in connection with a qualified stock purchase with respect to which an election is made under this section, the target corporation makes a distribution in complete redemption of all of the stock of a shareholder which qualifies under paragraph (3) of subdivision (b) of Section 24455 (determined without regard to the application of clause (ii) of subparagraph (A) of paragraph (2) of subdivision (c) of Section 24455), Section 24511 shall apply to that distribution as if it were a distribution in complete liquidation.

(d) For purposes of this section—

(1) The term "purchasing corporation" means any corporation which makes a qualified stock purchase of stock of another corporation.

(2) The term "target corporation" means any corporation the stock of which is acquired by another corporation in a qualified stock purchase.

(3) The term "qualified stock purchase" means any transaction or series of transactions in which stock of one corporation possessing—

(A) At least 80 percent of total combined voting power of all classes of stock entitled to vote, and

(B) At least 80 percent of the total number of shares of all other classes of stock (except nonvoting stock which is limited and preferred as to dividends), is acquired by another corporation by purchase during the 12-month acquisition period.

(e) (1) A purchasing corporation shall be treated as having made an election under this section with respect to any target corporation if, at any time during the consistency period, it acquires any asset of the target corporation (or a target affiliate).

(2) Paragraph (1) shall not apply with respect to any acquisition by the purchasing corporation if—

(A) That acquisition is pursuant to a sale by the target corporation (or the target affiliate) in the ordinary course of its trade or business,

(B) The basis of the property acquired is determined (wholly) by reference to the adjusted basis of that property in the hands of the person from whom acquired,

(C) That acquisition was before September 1, 1982, or

(D) That acquisition is described in regulations prescribed by the Franchise Tax Board and meets any conditions which those regulations may provide.

(3) Whenever necessary to carry out the purpose of this subdivision and subdivision (f), the Franchise Tax Board may treat stock acquisitions which are pursuant to a plan and which meet the 80 percent requirements of subparagraphs (A) and (B) of paragraph (3) of subdivision (d) as qualified stock purchases.

(f) If a purchasing corporation makes qualified stock purchases with respect to the target corporation and one or more target affiliates during any consistency period, then (except as otherwise pro-

vided in subdivision (e))—

(1) Any election under this section with respect to the first such purchase shall apply to each other such purchase, and

(2) No election may be made under this section with respect to the second or subsequent such purchase if such an election was not made with respect to the first such purchase.

(g) (1) Except as otherwise provided in regulations, an election under this section shall be made not later than the 15th day of the 9th month, beginning after the month in which the acquisition date occurs.

(2) An election by the purchasing corporation under this section shall be made in such manner as the Franchise Tax Board shall by regulations prescribe.

(3) An election by a purchasing corporation under this section, once made, shall be irrevocable.

(h) For purposes of this section—

(1) The term "12-month period" means the 12-month period beginning with the date of the first acquisition by purchase of stock included in a qualified stock purchase (or if any of that stock was acquired in an acquisition which is a purchase by reason of subparagraph (C) of paragraph (3), the date on which the acquiring corporation is first considered under Section 24497 (other than subdivision (d) thereof) as owning stock owned by the corporation from which that acquisition was made).

(2) The term "acquisition date" means, with respect to any corporation, the first day on which there is a qualified stock purchase with respect to the stock of that corporation.

(3) (A) The term "purchase" means any acquisition of stock, but only if—

(i) The basis of the stock in the hands of the purchasing corporation is not determined,

(I) In whole or in part by reference to the adjusted basis of such stock in the hands of the person from whom acquired, or

(II) Under Section 18032 (relating to property acquired from a decedent),

(ii) The stock is not acquired in an exchange to which Section 24521, 24531, 24532 to 24533, inclusive, or 24535 to 24539, inclusive, apply, and is not acquired in any other transaction described in regulations in which the transferor does not recognize the entire amount of the gain or loss realized on the transaction, and

(iii) The stock is not acquired from a person the ownership of whose stock would, under Section 24497 (other than subdivision (d) thereof), be attributed to the person acquiring that stock.

(B) The term "purchase" includes any deemed purchase under paragraph (2) of subdivision (a). The acquisition date for a corporation which is deemed purchased under paragraph (2) of subdivision (a) shall be determined under regulations prescribed by the Franchise Tax Board.

(C) (i) Clause (iii) of a subparagraph (A) shall not apply to an

acquisition of stock from a related corporation if at least 50 percent in value of the stock of that related corporation was acquired by purchase (within the meaning of subparagraphs (A) and (B)).

(ii) Clause (i) of subparagraph (A) shall not apply to an acquisition of stock described in clause (i) of this subparagraph if the corporation acquiring that stock—

(I) Made a qualified stock purchase of stock of the related corporation, and

(II) Made an election under this section (or is treated under subdivision (e) as having made such an election) with respect to that qualified stock purchase.

(iii) For purposes of this subparagraph, a corporation is a related corporation if stock owned by that corporation is treated (under Section 24497 other than subdivision (d) thereof) as owned by the corporation acquiring the stock.

(4) (A) Except as provided in subparagraph (B), the term "consistency period" means the period consisting of—

(i) The one-year period before the beginning of the 12-month acquisition period for the target corporation,

(ii) That acquisition period (up to and including the acquisition date), and

(iii) The one-year period beginning on the date after the acquisition date.

(B) The period referred to in subparagraph (A) shall also include any period during which the Franchise Tax Board determines that there was in effect a plan to make a qualified stock purchase plus one of more other qualified stock purchases (or asset acquisitions described in subdivision (e)) with respect to the target corporation or any target affiliate.

(5) The term "affiliated group" has the meaning given to such term by Section 1504(a) of the Internal Revenue Code (determined without regard to the exceptions contained in Section 1504(b) of the Internal Revenue Code).

(6) (A) A corporation shall be treated as a target affiliate of the target corporation if each of those corporations was, at any time during so much of the consistency period as ends on the acquisition date of the target corporation, a member of an affiliated group which had the same common parent.

(B) Except as otherwise provided in regulations (and subject to such conditions as may be provided in regulations)—

(i) The term "target affiliate" does not include a foreign corporation, and

(ii) Stock held by a target affiliate in a foreign corporation shall be excluded from the operation of this section.

(7) For purposes of paragraph (1) of subdivision (c), any increase in the maximum percentage of stock taken into account over the percentage of stock (by value) of the target corporation held by the purchasing corporation on the acquisition date shall be taken into account only to the extent that increase is attributable to either of the

following:

(A) A purchase.

(B) A redemption of stock of the target corporation—

(i) To which subdivision (a) of Section 24455 applies, or

(ii) In the case of a shareholder who is not a corporation, to which Sections 24451 to 24454.2, inclusive, apply.

(8) Except as provided in regulations prescribed by the Franchise Tax Board, stock and asset acquisitions made by members of the same affiliated group shall be treated as made by one corporation.

(9) Except as otherwise provided in paragraph (10) or in regulations prescribed under this paragraph, the target corporation shall not be treated as a member of an affiliated group with respect to the sale described in paragraph (1) of subdivision (a).

(10) (A) Under regulations prescribed by the Franchise Tax Board, an election may be made under which if—

(i) The target corporation was, before the transaction, a member of the selling consolidated group, and

(ii) The target corporation recognizes gain or loss with respect to the transaction as if it sold all of its assets in a single transaction, then the target corporation shall be treated as a member of the selling consolidated group with respect to that sale, and (to the extent provided in regulations) no gain or loss will be recognized on stock sold or exchanged in the transaction by members of the selling consolidated group.

(B) For purposes of subparagraph (A), the term "selling consolidated group" means any group of corporations which (for the taxable period which includes the transaction)—

(i) Includes the target corporation, and

(ii) Files a combined return.

(11) For purposes of paragraph (1) of subdivision (a), fair market value may be determined on the basis of a formula provided in regulations prescribed by the Franchise Tax Board which takes into account liabilities and other relevant items.

(12) If—

(A) During the 12-month period ending on the acquisition date the target corporation adopted a plan of complete liquidation,

(B) That plan was not rescinded before the close of the acquisition date, and

(C) The purchasing corporation makes an election under this section (or is treated under subdivision (e) as having made such an election) with respect to the target corporation,

then, subject to rules similar to the rules of paragraph (1) of subdivision (c), for purposes of Sections 24512 to 24518, inclusive, (and other provisions which relate to Sections 24512 to 24518, inclusive), the target corporation shall be treated as having distributed all of its assets as of the close of the acquisition date.

(13) For purposes of Sections 25951 to 25954, inclusive, tax attributable to the sale described in paragraph (1) of subdivision (a) shall not be taken into account.

(14) Under regulations prescribed by the Franchise Tax Board, a combined deemed sale return may be filed by all target corporations acquired by a purchasing corporation on the same acquisition date if those target corporations were members of the same selling consolidated group (as defined in subparagraph (B) of paragraph (10)).

(i) The Franchise Tax Board shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including both of the following:

(1) Regulations to ensure that the purpose of this section to require consistency of treatment of stock and asset sales and purchases may not be circumvented through the use of any provision of law or regulations (including the combined return regulations).

(2) Regulations providing for the coordination of the provisions of this section with the provision of this title relating to foreign corporations and their shareholders.

SEC. 125. Section 24561 of the Revenue and Taxation Code is amended to read:

24561. (a) (1) If, in connection with any exchange described in Section 24502, 24521, 24531, 24535, 24536, 24537, 24538, 24539, or 24551, a United States person transfers property to a foreign corporation, that foreign corporation shall not, for purposes of determining the extent to which gain shall be recognized on that transfer, be considered to be a corporation.

(2) Except to the extent provided in regulations, paragraph (1) shall not apply to the transfer of stock or securities of a foreign corporation which is a party to the exchange or a party to the reorganization.

(3) (A) Except as provided in regulations, paragraph (1) shall not apply to any property transferred to a foreign corporation for use by that foreign corporation in the active conduct of a trade or business outside of the United States.

(B) Except as provided in regulations, subparagraph (A) shall not apply to any of the following:

(i) Property described in paragraph (1) or (3) of Section 1221 of the Internal Revenue Code (relating to inventory and copyrights, etc.).

(ii) Installment obligations, accounts receivable, or similar property.

(iii) Foreign currency or other property denominated in foreign currency.

(iv) Intangible property (within the meaning of Section 936(h)(3)(B) of the Internal Revenue Code).

(v) Property with respect to which the transferor is a lessor at the time of the transfer, except that this clause shall not apply if the transferee was the lessee.

(C) Except as provided in regulations, subparagraph (A) shall not apply to gain realized on the transfer of the assets of a foreign branch of a United States person to a foreign corporation in an exchange described in paragraph (1) to the extent that:

(i) The sum of losses—

(I) Which were incurred by the foreign branch before the transfer, and

(II) With respect to which a deduction was allowed to the taxpayer, exceeds

(ii) The sum of—

(I) Any income of that branch for an income year after the income year in which the loss was incurred and through the close of the income year of the transfer, and

(II) The amount which is recognized under Section 904(f)(3) of the Internal Revenue Code, on account of the transfer.

Any gain recognized by reason of the preceding sentence shall be treated for purposes of this part as income from sources outside the United States having the same character as those losses had.

(4) Except as provided in regulations, a transfer by a United States person of an interest in a partnership to a foreign corporation in an exchange described in paragraph (1) shall, for purposes of this subdivision, be treated as a transfer to that corporation of that person's pro rata share of the assets of the partnership.

(5) Paragraph (1) shall not apply to the transfer of any property which the Franchise Tax Board, in order to carry out the purposes of this subdivision, designates by regulation.

(b) (1) In the case of any exchange described in Section 24502, 24521, 24531, 24532, 24533, 24535, 24536, 24537, 24538, 24539, or 24551 in connection with which there is no transfer of property described in subdivision (a) (1), a foreign corporation shall be considered to be a corporation except to the extent provided in regulations prescribed by the Franchise Tax Board which are necessary or appropriate to prevent the avoidance of taxes under this part.

(2) The regulations prescribed pursuant to paragraph (1) shall include (but shall not be limited to) regulations dealing with the sale or exchange of stock or securities in a foreign corporation by a United States person, including regulations providing—

(A) The circumstances under which—

(i) Gain shall be recognized currently, or amounts included in gross income currently as a dividend, of both, or

(ii) Gain or other amounts may be deferred for inclusion in the gross income of a shareholder (or his successor in interest) at a later date, and

(B) The extent to which adjustments shall be made to earnings and profits, basis of stock or securities, and basis of assets.

(c) (1) For purposes of this section, any distribution described in Sections 24532 and 24533 (or so much of Sections 24535 to 24539, inclusive, as relates to Sections 24532 and 24533) shall be treated as an exchange whether or not it is an exchange.

(2) For purposes of this part, any transfer of property to a foreign corporation as a contribution to the capital of such corporation by one or more persons who immediately after the transfer, own (within the meaning of Section 24497) stock possessing at least 80 percent

of the total combined voting power of all classes of stock of such corporation entitled to vote shall be treated as an exchange of such property for stock of the foreign corporation equal in value to the fair market value of the property transferred.

(d) (1) Except as provided in regulations prescribed by the Franchise Tax Board, if a United States person transfers any intangible property (within the meaning of Section 936(h) (3) (B) of the Internal Revenue Code) to a foreign corporation in an exchange described in Section 24521 or 24551—

(A) Subdivision (a) shall not apply to the transfer of that property, and

(B) The provisions of this subdivision shall apply to that transfer.

(2) (A) If paragraph (1) applies to any transfer, the United States person transferring that property shall be treated as—

(i) Having sold that property in exchange for payments which are contingent upon the productivity, use, or disposition of that property, and

(ii) Receiving amounts which reasonably reflect the amounts which would have been received—

(I) Annually in the form of those payments over the useful life of that property, or

(II) In the case of a disposition following that transfer (whether direct or indirect), at the time of the disposition.

(B) For purposes of this part, the earnings and profits of a foreign corporation to which the intangible property was transferred shall be reduced by the amount required to be included in the income of the transferor of the intangible property under clause (ii) of subparagraph (A).

(C) For purposes of this part, any amount including in gross income by reason of this subdivision shall be treated as ordinary income from sources within the United States.

(e) In the case of any distribution described in Section 24511 by a domestic corporation which is made to a person who is not a United States person, to the extent provided in regulations, gain shall be recognized under principles similar to the principles of this section.

(f) In the case of any exchange beginning before January 1, 1978—

(1) Subdivision (a) shall be applied without regard to whether or not there is a transfer of property described in subdivision (a) (1), and

(2) Subdivision (b) shall not apply.

SEC. 126. Section 24562 of the Revenue and Taxation Code is amended to read:

24562. (a) For purposes of Chapter 8 (commencing with Section 24451), Chapter 9 (commencing with Section 24501), and this chapter, "reorganization" means any of the following:

(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 both of the following apply:

(A) No stock of the acquiring corporation is used in the transaction.

(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 such corporation.

(6) (A) If immediately before a transaction described in subdivision (a) (other than paragraph (5) thereof), two or more parties to the transaction were investment companies, then the transaction shall not be considered to be a reorganization with respect to any such investment company (and its shareholders and security holders) unless it was a regulated investment company, a real estate investment trust, or a corporation which meets the requirements of subparagraph (B).

(B) A corporation meets the requirements of this subparagraph if not more than 25 percent of the value of its total assets is invested in the stock and securities of any one issuer, and not more than 50 percent of the value of its total assets is invested in the stock and

securities of five or fewer issuers. For purposes of this paragraph, all members of a controlled group of corporations (within the meaning of Section 1563(a) of the Internal Revenue Code of 1954) shall be treated as one issuer.

(C) For purposes of this paragraph, "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 that investment company and its shareholders and security holders as though its assets had been acquired by that other corporation. If the investment company acquires stock of another corporation in a reorganization described in paragraph (2) of subdivision (a) of Section 24562 (hereafter referred to as the "actual acquisition") subparagraph (A) shall be applied to the shareholders of that investment company as though they had exchanged with the 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. 80a-2(36).

(7) (A) A transaction shall fail to meet the requirements of paragraph (3) of subdivision (a), unless the acquired corporation distributes the stock, securities, and other properties it receives, as well as its other properties, in pursuance of the plan of reorganization.

(B) The Franchise Tax Board may waive the application of subparagraph (A) to any transaction subject to any conditions the Franchise Tax Board may prescribe.

(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. 127. Chapter 11.7 (commencing with Section 24585) is added to Part 11 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 11.7. MISCELLANEOUS CORPORATE PROVISIONS

24585. (a) For purposes of determining the amount (and character) of gain recognized by a corporation on any distribution of an interest in a partnership, the distribution shall be treated in the same

manner as if it included a property distribution consisting of the corporation's proportionate share of the recognition property of that partnership.

(b) For purposes of determining the amount (and character) of gain recognized on a sale or exchange described in Sections 24512 to 24517, inclusive, any sale or exchange by a corporation of an interest in a partnership shall be treated as a sale or exchange of the corporation's proportionate share of the recognition property of that partnership.

(c) For purposes of this section, "recognition property" means any property with respect to which gain would be recognized to the corporation if that property—

(1) Was distributed by the corporation in a distribution described in Sections 24481 to 24483.5, inclusive, or 24511, or

(2) Was sold in a sale described in Sections 24512 to 24517, inclusive, whichever is appropriate. In determining whether property of a partnership is recognition property, that partnership shall be treated as owning its proportionate share of the property of any other partnership in which it is a partner.

(d) Under regulations prescribed by the Franchise Tax Board, rules similar to the rules of this section shall also apply in the case of the distribution or sale or exchange by a corporation of an interest in a trust.

SEC. 128. Section 24609 of the Revenue and Taxation Code is repealed.

SEC. 129. Section 24609 is added to the Revenue and Taxation Code, to read:

24609. (a) If there is no plan, but under Section 404(b) of the Internal Revenue Code, the deferred compensation or benefits would be treated as if there were a plan, then Sections 24601 to 24608, inclusive, shall apply as if there were such a plan.

(b) In the case of any extended vacation pay plan maintained pursuant to a collective bargaining agreement—

(1) Between employee representatives and one or more employers, and

(2) In effect on June 22, 1984, this section shall not apply before the date on which that collective bargaining agreement terminates (determined without regard to any extension thereof agreed to after June 22, 1984). For purposes of the preceding sentence, any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of that collective bargaining agreement.

SEC. 130. Section 24615 is added to the Revenue and Taxation Code, to read:

24615. (a) Treatment of funded welfare benefit plans shall be determined in accordance with Section 419 of the Internal Revenue Code.

(b) Limitations on additions to qualified asset accounts shall be

determined in accordance with Section 419A of the Internal Revenue Code.

SEC. 131. Section 24651 of the Revenue and Taxation Code is amended to read:

24651. (a) Income shall be computed under the method of accounting on the basis of which the taxpayer regularly computes its income in keeping its books.

(b) If no method of accounting has been regularly used by the taxpayer, or if the method used does not clearly reflect income, the computation of income shall be made under such method as, in the opinion of the Franchise Tax Board, does clearly reflect income.

(c) Subject to the provisions of subsections (a) and (b), a taxpayer may compute income under any of the following methods of accounting—

(1) The cash receipts and disbursements method;

(2) An accrual method;

(3) Any other method permitted by this part; or

(4) Any combination of the foregoing methods permitted under regulations prescribed by the Franchise Tax Board.

(d) A taxpayer engaged in more than one trade or business may in computing income, use a different method of accounting for each trade or business.

(e) Except as otherwise expressly provided in this part, a taxpayer who changes the method of accounting on the basis of which it regularly computes its income in keeping its books shall, before computing its income under the new method, secure the consent of the Franchise Tax Board.

(f) If the taxpayer does not file with the Franchise Tax Board a request to change the method of accounting, the absence of the consent of the Franchise Tax Board to a change in the method of accounting shall not be taken into account for either of the following:

(1) To prevent the imposition of any penalty, or the addition of any amount to tax, under this part.

(2) To diminish the amount of that penalty or addition to tax.

SEC. 132. Section 24667 of the Revenue and Taxation Code is amended to read:

24667. (a) Except as otherwise provided in this section, income from an installment sale shall be taken into account for purposes of this part under the installment method.

(b) For purposes of this section—

(1) The term "installment sale" means a disposition of property where at least one payment is to be received after the close of the income year in which the disposition occurs.

(2) The term "installment sale" does not include—

(A) A disposition of personal property on the installment plan by a person who regularly sells or otherwise disposes of personal property on the installment plan.

(B) A disposition of personal property of a kind which is required to be included in the inventory of the taxpayer if on hand at the close

of the income year.

(c) For purposes of this section, the term "installment method" means a method under which the income recognized for any income year from a disposition is that proportion of the payments received in that year which the gross profit (realized or to be realized when payment is completed) bears to the total contract price.

(d) (1) Subdivision (a) shall not apply to any disposition if the taxpayer elects to have subdivision (a) not apply to such disposition.

(2) Except as otherwise provided, an election under paragraph (1) with respect to a disposition may be made only on or before the due date prescribed by law (including extensions) for filing the taxpayer's return of the tax imposed by this part for the income year in which the disposition occurs. Such an election shall be made in the manner prescribed by the Franchise Tax Board.

(3) An election under paragraph (1) with respect to any disposition may be revoked only with the consent of the Franchise Tax Board.

(e) (1) If—

(A) Any person disposes of property to a related person (hereinafter in this subdivision referred to as the "first disposition"), and

(B) Before the person making the first disposition receives all payments with respect to such disposition, the related person disposes of the property (hereinafter in this subdivision referred to as the "second disposition"),

then, for purposes of this section, the amount realized with respect to such second disposition shall be treated as received at the time of the second disposition by the person making the first disposition.

(2) (A) Except in the case of marketable securities, paragraph (1) shall apply only if the date of the second disposition is not more than two years after the date of the first disposition.

(B) The running of the two-year period set forth in subparagraph (A) shall be suspended with respect to any property for any period during which the related person's risk of loss with respect to the property is substantially diminished by—

(i) The holding of a put with respect to such property (or similar property),

(ii) The holding by another person of a right to acquire the property, or

(iii) A short sale or any other transaction.

(3) The amount treated for any income year as received by the person making the first disposition by reason of paragraph (1) shall not exceed the excess of—

(A) The lesser of—

(i) The total amount realized with respect to any second disposition of the property occurring before the close of the income year, or

(ii) The total contract price for the first disposition, over

(B) The sum of—

(i) The aggregate amount of payments received with respect to

the first disposition before the close of such year, plus

(ii) The aggregate amount treated as received with respect to the first disposition for prior income years by reason of this subdivision.

(4) For purposes of this subdivision, if the second disposition is not a sale or exchange, an amount equal to the fair market value of the property disposed of shall be substituted for the amount realized.

(5) If paragraph (1) applies for any income year, payments received in subsequent income years by the person making the first disposition shall not be treated as the receipt of payments with respect to the first disposition to the extent that the aggregate of such payments does not exceed the amount treated as received by reason of paragraph (1).

(6) For purposes of this subdivision—

(A) Any sale or exchange of stock to the issuing corporation shall not be treated as a first disposition.

(B) A compulsory or involuntary conversion (within the meaning of Section 24944) and any transfer thereafter shall not be treated as a second disposition if the first disposition occurred before the threat or imminence of the conversion.

(C) Any transfer after the earlier of—

(i) The death of the person making the first disposition, or

(ii) The death of the person acquiring the property in the first disposition,

and any transfer thereafter shall not be treated as a second disposition.

(7) This subdivision shall not apply to a second disposition (and any transfer thereafter) if it is established to the satisfaction of the Franchise Tax Board that neither the first disposition nor the second disposition had as one of its principal purposes the avoidance of bank and corporation tax.

(8) The period for assessing a deficiency with respect to a first disposition (to the extent such deficiency is attributable to the application of this subdivision) shall not expire before the day which is two years after the date on which the person making the first disposition furnishes (in such manner as the Franchise Tax Board may prescribe) a notice that there was a second disposition of the property to which this subdivision may have applied. Such deficiency may be asessed notwithstanding the provisions of any law or rule of law which would otherwise prevent such assessment.

(f) For purposes of this section—

(1) Except for purposes of subdivisions (g) and (h), the term "related person" means a person whose stock would be attributed under Section 24497 (other than subdivision (d) thereof) to the person first disposing of the property.

(2) The term "marketable securities" means any security for which, as of the date of the disposition, there was a market on an established securities market or otherwise.

(3) Except as provided in paragraph (4), the term "payment" does not include the receipt of evidences of indebtedness of the

person acquiring the property (whether or not payment of such indebtedness is guaranteed by another person).

(4) Receipt of a bond or other evidence of indebtedness which—

(A) Is payable on demand, or

(B) Is issued by a corporation or a government or political subdivision thereof and is readily tradable,

shall be treated as receipt of payment.

(5) For purposes of paragraph (4), the term "readily tradable" means a bond or other evidence of indebtedness which is issued—

(A) With interest coupons attached or in registered form (other than one in registered form which the taxpayer establishes will not be readily tradable in an established securities market), or

(B) In any other form designed to render such bond or other evidence of indebtedness readily tradable in an established securities market.

(6) In the case of any exchange described in subdivision (b) of Section 24941—

(A) The total contract price shall be reduced to take into account the amount of any property permitted to be received in such exchange without recognition of gain,

(B) The gross profit from such exchange shall be reduced to take into account any amount not recognized by reason of subdivision (b) of Section 24941, and

(C) The term "payment," when used in any provision of this section other than paragraph (1) of subdivision (b), shall not include any property permitted to be received in such exchange without recognition of gain.

Similar rules shall apply in the case of an exchange which is described in Section 24535 and is not treated as a dividend.

(7) The term "depreciable property" means property of a character which (in the hands of the transferee) is subject to the allowance for depreciation provided in Section 24349.

(g) (1) In the case of an installment sale of depreciable property between related persons within the meaning of subdivision (b) of Section 1239 of the Internal Revenue Code, subdivision (a) shall not apply, and, for purposes of this part, all payments to be received shall be deemed received in the year of the disposition.

(2) Paragraph (1) shall not apply if it is established to the satisfaction of the Franchise Tax Board that the disposition did not have as one of its principal purposes the avoidance of bank and corporation tax.

(h) (1) (A) If, in connection with a liquidation to which Section 24512 applies, in a transaction to which Section 24501 applies the shareholder receives (in exchange for the shareholder's stock) an installment obligation acquired in respect of a sale or exchange by the corporation during the 12-month period set forth in subdivision (b) of Section 24512, then, for purposes of this section, the receipt of payments under such obligation (but not the receipt of such obligation) by the shareholder shall be treated as the receipt of payment

for the stock.

(B) Subparagraph (A) shall not apply to an installment obligation described in paragraph (2) of subdivision (a) of Section 24513 unless such obligation is also described in paragraph (2) of subdivision (b) of Section 24513.

(C) If the obligor of any installment obligation and the shareholder are married to each other or are related persons (within the meaning of subdivision (b) of Section 1239 of the Internal Revenue Code), to the extent such installment obligation is attributable to the disposition by the corporation of depreciable property—

(i) Subparagraph (A) shall not apply to such obligation, and

(ii) For purposes of this part, all payments to be received by the shareholder shall be deemed received in the year the shareholder receives the obligation.

(D) For purposes of subparagraph (A) of paragraph (1) of subdivision (e), disposition of property by the corporation shall be treated also as disposition of such property by the shareholder.

(E) For purposes of subparagraph (A), in any case to which subdivision (c) of Section 24514 applies, an obligation acquired in respect of a sale or exchange by the selling corporation shall be treated as so acquired by the corporation distributing the obligation to the shareholder.

(2) If—

(A) Paragraph (1) applies with respect to any installment obligation received by a shareholder from a corporation, and

(B) By reason of the liquidation such shareholder receives property in more than one income year,

then, on completion of the liquidation, basis previously allocated to property so received shall be reallocated for all such income years so that the shareholder's basis in the stock of the corporation is properly allocated among all property received by such shareholder in such liquidation.

(i) (1) In the case of any installment sale of property to which subdivision (a) applies, both of the following shall apply:

(A) Notwithstanding any other provision of this part, any recapture income shall be recognized in the year of the disposition.

(B) Any gain in excess of the recapture income shall be taken into account under the installment method.

(2) For purposes of paragraph (1), "recapture income" means, with respect to any installment sale, the amount by which the lower of—

(A) The recomputed basis of the property, or

(B) (i) In the case of a sale, exchange, or involuntary conversion, the amount realized, or

(ii) In the case of any other disposition, the fair market value of the property, exceeds the adjusted basis of the property.

(3) For purposes of this subdivision, "recomputed basis" means the adjusted basis of the property recomputed by adding thereto both of the following:

(A) All depreciation adjustments attributable to periods after December 31, 1962.

(B) Any amount deducted under Section 24356.3 (relating to expensing of certain business assets).

(j) (1) The Franchise Tax Board shall prescribe such regulations as may be necessary or appropriate to carry out the provisions of this section.

(2) The regulations prescribed under paragraph (1) shall include regulations providing for ratable basis recovery in transactions where the gross profit or the total contract price (or both) cannot be readily ascertained.

SEC. 133. Section 24684 of the Revenue and Taxation Code is amended to read:

24684. If—

(a) The taxpayer contests an asserted liability,

(b) The taxpayer transfers money or other property to provide for the satisfaction of the asserted liability,

(c) The contest with respect to the asserted liability exists after the time of the transfer, and

(d) But for the fact that the asserted liability is contested, a deduction would be allowed for the income year of the transfer (or for an earlier income year) determined after application of Section 24686.2, then the deduction shall be allowed for the income year of the transfer.

SEC. 134. Section 24686.2 is added to the Revenue and Taxation Code, to read:

24686.2. (a) For purposes of this part, in determining whether an amount has been incurred with respect to any item during any income year, the all events test shall not be treated as met any earlier than when economic performance with respect to that item occurs.

(b) Except as provided in regulations prescribed by the Franchise Tax Board, the time when economic performance occurs shall be determined under the following principles:

(1) If the liability of the taxpayer arises out of—

(A) The providing of services to the taxpayer by another person, economic performance occurs as the person provides those services,

(B) The providing of property to the taxpayer by another person, economic performance occurs as the person provides that property, or

(C) The use of property by the taxpayer, economic performance occurs as the taxpayer uses that property.

(2) If the liability of the taxpayer requires the taxpayer to provide property or services, economic performance occurs as the taxpayer provides that property or services.

(3) If the liability of the taxpayer requires a payment to another person and—

(A) Arises under any workers compensation act, or

(B) Arises out of any tort, economic performance occurs as the payments to that person are made Paragraphs (1) and (2) shall not

apply to any liability described in the preceding sentence.

(4) In the case of any other liability of the taxpayer, economic performance occurs at the time determined under regulations prescribed by the Franchise Tax Board.

(c) (1) Notwithstanding subdivision (a), an item shall be treated as incurred during any income year if—

(A) The all events test with respect to that item is met during that income year (determined without regard to sudivision (a)),

(B) Economic performance with respect to that item occurs within the shorter of—

(i) A reasonable period after the close of that income year, or

(ii) Eight and one-half months after the close of that income year,

(C) That item is recurring in nature and the taxpayer consistently treats items of that kind as incurred in the income year in which the requirements of subparagraph (A) are met, and

(D) Either—

(i) That item is not a material item, or

(ii) The accrual of that item in the income year in which the requirements of subparagraph (A) are met results in a more proper match against income than accruing that item in the income year in which economic performance occurs.

(2) In making a determination under subparagraph (D), the treatment of that item on financial statements shall be taken into account.

(3) This paragraph shall not apply to any item described in paragraph (3) of subdivision (b).

(d) For purposes of this section, the all events test is met with respect to any item if all events have occurred which determine the fact of liability and the amount of that liability can be determined with reasonable accuracy.

(e) This section shall not apply to any item to which any of the following provisions apply:

(A) Section 24348 (relating to reserves for bad debts).

(B) Section 24685 (relating to vacation pay).

(C) Section 24687 (relating to discount coupons).

(D) Any other provisions of this part which specifically provides for a deduction for a reserve for estimated expenses.

SEC. 135. Section 24686.4 is added to the Revenue and Taxation Code, to read:

24686.4. (a) In the case of a tax shelter using the cash receipts and disbursements method of accounting, that tax shelter shall not be allowed a deduction under this part with respect to any item any earlier than the time when that item would be treated as incurred under Section 24686.2 (determined without regard to subdivision (c) thereof).

(b) (1) Subdivision (a) shall not apply to any item if economic performance with respect to that item occurs within 90 days after the close of the income year.

(2) (A) In the case of a tax shelter which is a partnership, in

applying Section 704(d) of the Internal Revenue Code to a deduction or loss for any income year attributable to an item which is deductible by reason of paragraph (1), the term "cash basis" shall be substituted for the term "adjusted basis."

(B) Under regulations prescribed by the Franchise Tax Board, in the case of a tax shelter other than a partnership, the aggregate amount of the deductions allowable by reason of paragraph (1) for any income year shall be limited in a manner similar to the limitation under subparagraph (A).

(3) For purposes of paragraph (2), a partner's cash basis in a partnership shall be equal to the adjusted basis of that partner's interest in the partnership, determined without regard to—

(A) Any liability of the partnership, and

(B) Any amount borrowed by the partner with respect to that partnership which—

(i) Was arranged by the partnership or by any person who participated in the organization, sale, or management of the partnership (or any person related to that person within the meaning of Section 168(e)(4) of the Internal Revenue Code), or

(ii) Was secured by any assets of the partnership.

(4) Solely for purposes of applying paragraph (1), economic performance with respect to the act of drilling of an oil or gas well shall be treated as occurring when the drilling of the well is commenced.

(c) For purposes of this section, "tax shelter" means any of the following:

(1) Any enterprise (other than a corporation) if at any time interests in that enterprise have been offered for sale in any offering required to be registered with any federal or state agency having the authority to regulate the offering of securities for sale.

(2) Any syndicate (within the meaning of Section 1256(e)(3)(B) of the Internal Revenue Code).

(3) Any tax shelter (within the meaning of Section 6661(b)(2)(C)(ii) of the Internal Revenue Code).

(d) For purposes of this section, the term "economic performance" has the meaning given that term by Section 24686.2.

SEC. 136. Section 24688 is added to the Revenue and Taxation Code, to read:

24688. (a) In the case of the lessor or lessee under any Section 24688 rental agreement, there shall be taken into account for purposes of this part for any income year the sum of the following:

(1) The amount of the rent which accrues during that income year as determined under subdivision (b).

(2) Interest for the year on the amounts which were taken into account under this subdivision for prior income years and which are unpaid.

(b) (1) Except as provided in paragraph (2), the determination of the amount of the rent under any Section 24688 rental agreement which accrues during any income year shall be made—

(A) By allocating rents in accordance with the agreement, and

(B) By taking into account any rent to be paid after the close of the period in an amount determined under regulations which shall be based on present value concepts.

(2) In the case of any Section 24688 rental agreement to which this paragraph applies, the portion of the rent which accrues during any income year shall be that portion of the constant rental amount with respect to that agreement which is allocable to that income year.

(3) Paragraph (2) applies to any rental payment agreement if—

(A) That agreement is a disqualified leaseback or long-term agreement, or

(B) That agreement does not provide for the allocation referred to in subparagraph (A) of paragraph (1).

(4) For purposes of this subdivision, "disqualified leaseback or long-term agreement" means any Section 24688 rental agreement if—

(A) That agreement is part of a leaseback transaction or that agreement is for a term in excess of 75 percent of the statutory recovery period for the property, and

(B) A principal purpose for providing increasing rents under the agreement is the avoidance of tax imposed by this part.

(5) The Franchise Tax Board shall prescribe regulations setting forth circumstances under which agreements will not be treated as disqualified leaseback or long-term agreements, including circumstances relating to any of the following:

(A) Changes in amounts paid determined by reference to price indices.

(B) Rents based on a fixed percentage of lessee receipts or similar amounts.

(C) Reasonable rent holidays.

(D) Changes in amounts paid to unrelated third parties.

(c) (1) If—

(A) The lessor under any Section 24688 rental agreement disposes of any property subject to that agreement during the term of that agreement, and

(B) That agreement is a leaseback or long-term agreement to which paragraph (2) of subdivision (b) did not apply, the recapture amount shall be treated as ordinary income. That gain shall be recognized notwithstanding any other provision of this part.

(2) For purposes of paragraph (1), "recapture amount" means the lesser of—

(A) The prior understated inclusions, or

(B) The excess of the amount realized (or in the case of a disposition other than a sale, exchange, or involuntary conversion, the fair market value of the property) over the adjusted basis of that property.

The amount determined under subparagraph (B) shall be reduced by the amount of any gain treated as ordinary income on the disposition under any other provision of this part.

(3) For purposes of this subdivision, "prior understated inclusion"

means the excess (if any) of—

(A) The amount which would have been taken into account by the lessor under subdivision (a) for periods before the disposition if paragraph (2) of subdivision (b) had applied to the agreement, over

(B) The amount taken into account under subdivision (a) by the lessor for periods before the disposition.

(4) For purposes of this subdivision, "leaseback or long-term agreement" means any agreement described in subparagraph (A) of paragraph (3) of subdivision (b).

(5) Under regulations prescribed by the Franchise Tax Board:

(A) Exceptions similar to the exceptions applicable under Section 1245 or 1250 of the Internal Revenue Code (whichever is appropriate) shall apply for purposes of this subdivision.

(B) Any transferee in a disposition excepted by reason of subparagraph (A) who has a transferred basis in the property shall be treated in the same manner as the transferor.

(C) For purposes of Section 24357.1, Section 341(e)(12) of the Internal Revenue Code, paragraph (2) of subdivision (c) of Section 24669, and Section 751(c) of the Internal Revenue Code as modified by Section 17855, amounts treated as ordinary income under this section shall be treated in the same manner as amounts treated as ordinary income under Section 1245 or 1250 of the Internal Revenue Code.

(d) (1) Except as otherwise provided in this subdivision, "Section 24688 rental agreements" means any rental agreement for the use of tangible property under which—

(A) There is a least one amount allocable to the use of property during a calendar year which is to be paid after the close of the calendar year following the calendar year in which that use occurs, or

(B) There are increases in the amount to be paid as rent under the agreement.

(2) This section shall not apply to any amount to be paid for the use of property if the sum of the following amounts does not exceed two hundred fifty thousand dollars ($250,000):

(A) The aggregate amount of payments received as consideration for that use of property.

(B) The aggregate value of any other consideration to be received for that use of property.

For purposes of the preceding sentence, rules similar to the rules of clauses (ii) and (iii) of Section 1274(c)(2)(C) of the Internal Revenue Code shall apply.

(e) For purposes of this section:

(1) "Constant rental amount" means, with respect to any Section 24688 rental agreement, the amount which, if paid as of the close of each lease period under the agreement, would result in an aggregate present value equal to the present value of the aggregate payments required under the agreement.

(2) A transaction is a leaseback transaction if it involves a lease-

back to any person who had an interest in the property at any time within two years before that leaseback (or to a related person).

(3) (A) The following table shall apply:

In the case of property which is:	The statutory recovery period is:
3-year property	3 years
5-year property	5 years
10-year property	10 years
Low-income housing	15 years
15-year public utility property	15 years
18-year real property	18 years

(B) In the case of any property which is not recovery property, subparagraph (A) shall be applied as if that property were recovery property.

(4) For purposes of computing present value and interest under paragraph (2) of subdivision (a), the rate used shall be equal to 110 percent of the applicable federal rate determined under Section 1274(d) of the Internal Revenue Code (compounded semiannually) which is in effect at the time the agreement is entered into with respect to debt instruments having a maturity equal to the term of the agreement.

(5) The term "related person" has the meaning given to that term by Section 168(d) (4) (D) of the Internal Revenue Code.

(6) Except as provided in regulations prescribed by the Franchise Tax Board, there shall not be taken into account in computing the term of any agreement for purposes of this section any extension which is solely at the option of the lessee.

(f) Under regulations prescribed by the Franchise Tax Board, rules comparable to the rules of this section shall also apply in the case of any agreement where the amount paid under the agreement for the use of property decreases during the term of the agreement.

(g) Under regulations prescribed by the Franchise Tax Board, rules comparable to the rules of paragraph (2) of subdivision (a) shall also apply in the case of payments for services which meet requirements comparable to the requirements of subdivision (d).

(h) With respect to rental agreements entered into after June 8, 1984, and before January 1, 1985, the taxpayer may elect to come under the provisions of this section if both of the following occur:

(1) That election is made on the tax return for the first income year beginning on or after January 1, 1985.

(2) The taxpayer includes in income on that tax return an amount equal to the amount that would have been required to be included in income in the preceding income year had the provisions of this section been applicable for that income year.

(i) The Franchise Tax Board shall prescribe any regulations which may be appropriate to carry out the purposes of this section, includ-

ing regulations providing for the application of this section in the case of contingent payments.

SEC. 137. Section 24689 is added to the Revenue and Taxation Code, to read:

24689. (a) (1) If a taxpayer elects the application of this subdivision with respect to any mining or solid waste disposal property, the amount of any deduction for qualified reclamation or closing costs for any income year to which that election applies shall be equal to the current reclamation or closing costs allocable to both of the following:

(A) In the case of qualified reclamation costs, the portion of the reserve property which was disturbed during that income year.

(B) In the case of qualified closing costs, the production from the reserve property during that income year.

(2) (A) The opening balance of any reserve for its first income year shall be zero.

(B) (i) A reserve shall be increased each income year by an amount equal to the amount of interest which would be earned during that income year on the opening balance of that reserve for that income year if that interest were computed—

(I) At the federal short-term rate or rates (determined under Section 1274 of the Internal Revenue Code) in effect, and

(II) By compounding semiannually.

(ii) In the case of income years ending before January 1, 1987, the rate determined under subclause (I) of clause (i) shall be equal to the following percentage of that rate (determined without regard to this clause):

In the case of taxable years ending in:	The percentage is:
1984 or 1985	70
1986	85

(C) Any amount paid by the taxpayer during any income year for qualified reclamation or closing costs allocable to portions of the reserve property for which the election under paragraph (1) was in effect shall be charged to the appropriate reserve as of the close of the income year.

(3) There shall be allowed as a deduction for any income year the excess of—

(A) The amounts described in subparagraph (C) of paragraph (2) paid during that income year, over

(B) The closing balance of the reserve for that income year (determined without regard to subparagraph (C) of paragraph (2)).

(4) (A) In the case of any reserve for qualified reclamation costs, there shall be included in gross income for any income year an amount equal to the excess of—

(i) The closing balance of the reserve for that income year, over

(ii) The current reclamation costs of the taxpayer for all portions

of the reserve property disturbed during any income year to which the election under paragraph (1) applies.

(B) In the case of any reserve for qualified closing costs, there shall be included in gross income for any income year an amount equal to the excess of—

(i) The closing balance of the reserve for that income year, over

(ii) The current closing cost of the taxpayer with respect to the reserve property, determined as if all production with respect to the reserve property for any income year to which the election under paragraph (1) applies had occurred in that income year.

(C) This paragraph shall be applied after all adjustments to the reserve have been made for the income year.

(5) Proper inclusion in income shall be made upon—

(A) The revocation of an election under paragraph (1), or

(B) Completion of the closing, or disposition of any portion, of a reserve property.

(b) If the election under paragraph (1) of subdivision (a) is not in effect for one or more income years in which the reserved property is disturbed (or production occurs), items with respect to the reserve property shall be allocated to the reserve in any manner which the Franchise Tax Board may prescribe by regulations.

(c) (1) (A) The taxpayer may revoke an election under paragraph (1) of subdivision (a), with respect to any property. That revocation, once made, shall be irrevocable.

(B) Any revocation under subparagraph (A) shall be made at the time and in the manner which the Franchise Tax Board may prescribe.

(2) If a taxpayer makes an election under paragraph (1) of subdivision (a), the taxpayer shall establish with respect to the property for which the election was made both of the following:

(A) A separate reserve for qualified reclamation costs.

(B) A separate reserve for qualified closing costs.

(d) For purposes of this section:

(1) (A) "Current reclamation costs" means the amount which the taxpayer would be required to pay for qualified reclamation costs if the reclamation activities were performed currently.

(B) (i) "Current closing costs" means the amount which the taxpayer would be required to pay for qualified closing costs if the closing activities were performed currently.

(ii) Estimated closing costs shall be computed as follows:

(I) In the case of the closing of any mine site, on the unit-of-production method of accounting.

(II) In the case of the closing of any solid waste disposal site, on the unit-of-capacity method.

(2) "Qualified reclamation or closing cost" means any of the following expenses:

(A) Any expenses incurred for any land reclamation or closing activity which is conducted in accordance with a reclamation plan (including an amendment or modification thereof)—

(i) Which—

(I) Is submitted pursuant to the provisions of Section 511 or 528 of the Surface Mining Control and Reclamation Act of 1977 (as in effect on January 1, 1984), and

(II) Is part of a surface mining and reclamation permit granted under the provisions of Title V of that act (as so in effect), or

(ii) Which is submitted pursuant to any other federal or state law which imposes surface mining reclamation and permit requirements substantially similar to the requirements imposed by Title V of that act (as so in effect).

(B) (i) Any expenses incurred for any land reclamation or closing activity in connection with any solid waste disposal site which is conducted in accordance with any permit issued pursuant to—

(I) Any provision of the Solid Waste Disposal Act (as in effect on January 1, 1984) requiring that activity, or

(II) Any other federal, state, or local law which imposes requirements substantially similar to the requirements imposed by the Solid Waste Disposal Act (as so in effect).

(ii) Clause (i) shall not apply to that portion of any property which is disturbed after the property is listed in the national contingency plan established under Section 105 of the Comprehensive Environmental, Compensation, and Liability Act of 1980.

(3) The term "property" has the meaning given that term by Section 614 of the Internal Revenue Code.

(4) "Reserve property" means any property with respect to which a reserve is established under paragraph (1) of subdivision (a).

SEC. 138. Section 24690 is added to the Revenue and Taxation Code, to read:

24690. (a) If the taxpayer elects the application of this subdivision, there shall be allowed as a deduction for any income year the amount of payments made by the taxpayer to a Nuclear Decommissioning Reserve Fund (hereinafter referred to as the "fund") during that income year.

(b) The amount which a taxpayer may pay into the fund for any income year shall not exceed the lesser of—

(1) The amount of nuclear decommissioning costs allocable to the fund which is included in the taxpayer's cost of service for ratemaking purposes for that income year, or

(2) The ruling amount applicable to that income year.

(c) (1) There shall be includable in the gross income of the taxpayer for any income year all of the following:

(A) Any amount distributed from the fund during that income year, other than any amount distributed to pay costs described in subparagraph (B) of paragraph (2) of subdivision (e).

(B) Except to the extent provided in regulations, amounts properly includable in gross income in the case of any deemed distribution under paragraph (6) of subdivision (e), any termination under paragraph (7) of subdivision (e), or the disposition of any interest in the

nuclear powerplant.

(2) In addition to any deduction under subdivision (a), there shall be allowable as a deduction for any income year the amount of the nuclear decommissioning costs with respect to which economic performance (within the meaning of subdivision (b) of Section 24686.2) occurs during that income year.

(d) For purposes of this subdivision:

(1) No deduction shall be allowed for any payment to the fund unless the taxpayer requests, and receives, from the Franchise Tax Board a schedule of ruling amounts.

(2) "Ruling amount" means, with respect to any income year, the amount which the Franchise Tax Board determines under paragraph (1) to be necessary to do both of the following:

(A) Fund that portion of the nuclear decommissioning costs of the taxpayer with respect to the nuclear powerplant which bears the same ratio to the total nuclear decommissioning costs with respect to that nuclear powerplant as the period for which the fund is in effect bears to the estimated useful life of that nuclear powerplant.

(B) Prevent any excessive funding of those costs or the funding of those costs at a rate more rapid than level funding, taking into account those discount rates which the Franchise Tax Board deems appropriate.

(3) The Franchise Tax Board may at least once during the useful life of the nuclear powerplant (or, more frequently, upon the request of the taxpayer) review, and revise if necessary, the schedule of ruling amounts determined under paragraph (1).

(e) (1) Each taxpayer who elects the application of this subdivision shall establish a Nuclear Decommissioning Trust Fund with respect to each nuclear powerplant to which that election applies.

(2) There is imposed on the gross income of the fund for any income year a tax at a rate equal to the rate in effect under Section 23501, with the following exceptions:

(A) There shall not be included in the gross income of the fund any payment to the fund with respect to which a deduction is allowable under subdivision (a).

(B) There shall be allowed as a deduction any amount paid by the fund described in subparagraph (B) of paragraph (4) (other than to the taxpayer).

(3) The fund shall not accept any payments (or other amounts) other than payments with respect to which a deduction is allowable under subdivision (a).

(4) The fund shall be used exclusively for the following:

(A) Satisfying, in whole or in part, any liability of any person contributing to the fund for the decommissioning of a nuclear powerplant (or unit thereof).

(B) To pay administrative costs (including taxes) and other incidental expenses of the fund (including legal, accounting, actuarial, and trustee expenses) in connection with the operation of the fund.

(5) The Franchise Tax Board may, by regulation, prohibit self-

dealing with respect to the trust.

(6) In any case in which the fund violates any provision of this subdivision, the Franchise Tax Board may disqualify that fund from the application of this subdivision. In any case to which this subparagraph applies, the fund shall be treated as having distributed all of its funds on the date the determination takes effect.

(7) Upon substantial completion of the nuclear decommissioning of the nuclear powerplant with respect to which a fund relates, the taxpayer shall terminate that fund.

(f) For purposes of this section, "nuclear powerplant" includes any unit thereof.

SEC. 139. Section 24941 of the Revenue and Taxation Code is amended to read:

24941. (a) No gain or loss shall be recognized on the exchange of property held for productive use in trade or business or for investment if that property is exchanged solely for property of a like kind which is to be held either for productive use in trade or business or for investment.

(b) This section shall not apply to any exchange of any of the following:

(1) Stock in trade or other property held primarily for sale.

(2) Stocks, bonds, or notes.

(3) Other securities or evidence of indebtedness or interest.

(4) Interests in a partnership.

(5) Certificates of trust or beneficial interest.

(6) Choses in action.

(c) For purposes of this section, any property received by the taxpayer shall be treated as property which is not like-kind property if—

(1) That property is not identified as property to be received in the exchange before the day which is 45 days after the date on which the taxpayer transfers the property relinquished in the exchange, or

(2) That property is received after the earlier of—

(A) The day which is 180 days after the date on which the taxpayer transfers the property relinquished in the exchange, or

(B) The due date (determined with regard to extension) for the transferor's return of the tax imposed by this part for the income year in which the transfer of the relinquished property occurs.

(d) (1) Subdivision (c) shall be applied to any of the following:

(A) Transfers affected by this section after the effective date of the act amending this section during the first year of the 1985–86 Regular Session of the Legislature.

(B) Transfers on or before the effective date of the act amending this section during the first year of the 1985–86 Regular Session of the Legislature, provided the property to be received in exchange is not received before January 1, 1987.

(2) In the case of any transfer, on or before the effective date of the act amending this section during the first year of the 1985–86 Regular Session of the Legislature, which the taxpayer treated as part

of a like-kind exchange, the period for assessing any deficiency of tax attributable to that amendment shall not expire before January 1, 1989.

(3) If property to be received in the exchange, which the taxpayer treated as part of like-kind exchange, is identified in a binding contract in effect on the effective date of the act amending this section during the first year of the 1985–86 Regular Session of the Legislature, and at all times thereafter before the transfer, this subdivision shall be applied—

(A) By substituting "January 1, 1989" for "January 1, 1987," and

(B) By substituting "January 1, 1991" for "January 1, 1989."

SEC. 140. Section 24942 of the Revenue and Taxation Code is amended to read:

24942. (a) No gain or loss shall be recognized to a bank or corporation on the receipt of money or other property in exchange for stock (including treasury stock) of such bank or corporation. No gain or loss shall be recognized by a corporation with respect to any lapse or acquisition of an option to buy or sell its stock (including treasury stock).

(b) For basis of property acquired by a bank or corporation in certain exchanges for its stock, see Sections 24552 to 24554, inclusive.

SEC. 141. Section 24966 is added to the Revenue and Taxation Code, to read:

24966. (a) The basis in stock purchased shall be reduced by the nontaxed portion of any extraordinary dividend received as provided in Section 1059 of the Internal Revenue Code, except as otherwise provided in this section.

(b) The reduction described in Section 1059(b)(2)(B) of the Internal Revenue Code shall be the amount determined under Section 24402.

(c) Reference to Section 301 of the Internal Revenue Code shall be reference to Section 24451 to 24454, inclusive.

(d) Reference to Section 301(b)(2) of the Internal Revenue Code shall be reference to subdivision (b) of Section 24452.

(e) Reference to Section 301(c)(2) of the Internal Revenue Code shall be reference to subdivision (b) of Section 24453.

SEC. 142. Section 24998 of the Revenue and Taxation Code is amended to read:

24998. (a) In the case of any loss claimed to have been sustained from any sale or other disposition of shares of stock or securities where it appears that, within a period beginning 30 days before the date of such sale or disposition and ending 30 days after such date, the taxpayer has acquired (by purchase or by an exchange on which the entire amount of gain or loss was recognized by law), or has entered into a contract or option so to acquire, substantially identical stock or securities, then no deduction shall be allowed a corporation under Section 24347(a) unless it is a dealer in stocks or securities, and the loss is sustained in a transaction made in the ordinary course of its business.

(b) If the amount of stock or securities acquired (or covered by the contract or option to acquire) is less than the amount of stock or securities sold or otherwise disposed of, then the particular shares of stock or securities the loss from the sale or other disposition of which is not deductible shall be determined under regulations prescribed by the Franchise Tax Board.

(c) If the amount of stock or securities acquired (or covered by the contract or option to acquire) is not less than the amount of stock or securities sold or otherwise disposed of, then the particular shares of stock or securities the acquisition of which (or the contract or option to acquire which) resulted in the nondeductibility of the loss shall be determined under regulations prescribed by the Franchise Tax Board.

(d) If the property consists of stock or securities the acquisition of which (or the contract or option to acquire which) resulted in the nondeductibility (under this section or corresponding provisions of prior laws) of the loss from the sale or other disposition of substantially identical stock or securities, then the basis shall be the basis of the stock or securities so sold or disposed of, increased or decreased, as the case may be, by the difference, if any, between the price at which the property was acquired and the price at which such substantially identical stock or securities were sold or otherwise disposed of.

(e) Rules similar to the rules of subdivision (a) shall apply to any loss realized on the closing of a short sale of stock or securities if, within a period beginning 30 days before the date of that closing and ending 30 days after that date—

(1) Substantially identical stock or securities were sold, or

(2) Another short sale of substantially identical stock or securities was entered into.

SEC. 143. Section 25663 of the Revenue and Taxation Code is amended to read:

25663. (a) Except in the case of a fraudulent return, and except as otherwise expressly provided in this part, every notice of additional tax proposed to be assessed 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 such return was filed unless the notice is mailed within the four-year period or as otherwise provided.

(b) For the purposes of this section and Sections 25663a and 25663c a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day. For purposes of Section 26073, payment of any portion of the tax made before the last day prescribed for the payment of the tax shall be considered made on such last day.

(c) If a taxpayer determines in good faith that it is an exempt organization and files a return as such under Section 23772, and if such taxpayer is thereafter held to be a taxable organization for the taxable year for which the return is filed, such return shall be deemed the return of the organization for the purposes of this sec-

tion.

(d) The running of the period of limitations provided in subdivision (a) on mailing a notice of additional tax proposed to be assessed 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 such case from mailing a notice of additional tax proposed to be assessed and 60 days thereafter.

(e) Where, within the 60-day period ending on the day on which the time prescribed in this section for the assessment of any tax imposed by this part for any year would otherwise expire, the Franchise Tax Board receives a written document signed by the taxpayer showing that the taxpayer owes an additional amount of that tax for that year, the period for the assessment of that additional amount shall not expire before the day 60 days after the day on which the Franchise Tax Board receives that document.

SEC. 144. Section 25901c of the Revenue and Taxation Code is amended to read:

25901c. (a) Except as provided in Section 25903, interest shall be imposed under this article with respect to any assessable penalty as provided in this section.

(b) In the case of a penalty which, when assessed, is due and payable on notice and demand, other than a penalty imposed under Section 25931 (relating to failure to file a return on or before the due date), interest shall be imposed from the date of the notice and demand to the date of payment.

(c) In the case of a penalty which is initially assessed as a deficiency, other than a penalty imposed under Section 25931 (relating to failure to file a return on or before the due date) or Section 25934.4 (relating to substantial understatement of tax liability), interest shall be imposed from the date of the notice of proposed assessment to the date of payment.

(d) Interest shall be imposed under this article with respect to any penalty imposed by Section 25931 (relating to failure to file a return on or before the due date) or Section 25934.4 (relating to substantial understatement of tax liability) for the period which—

(i) Begins on the date on which the return of the tax with respect to which that penalty is imposed is required to be filed (including any extensions), and

(ii) Ends on the date of payment of that addition to tax.

SEC. 145. Section 25934 of the Revenue and Taxation Code is amended to read:

25934. (a) If any part of any deficiency is due to negligence, or intentional disregard of rules and regulations, but without intent to defraud, 5 percent of the total amount of the deficiency, in addition to such deficiency and other additions provided in this chapter, shall be assessed, collected and paid in the same manner as if it were a deficiency.

(b) There shall be added to the tax (in addition to the amount determined under subdivision (a)) an amount equal to 50 percent

of the interest payable under Sections 25901 through 25905—

(1) With respect to the portion of the deficiency described in subdivision (a) which is attributable to the negligence or intentional disregard referred to in subdivision (a), and

(2) For the period beginning on the last date prescribed by law for the payment of that deficiency (determined without regard to any extension) and ending on the date of the assessment of the tax (or, if earlier, the date of the payment of the tax).

(c) The amendments to this section made by the 1981–82 Regular Session of the Legislature shall apply to taxes the last date prescribed for payment of which is after December 31, 1981.

SEC. 146. Section 25965 of the Revenue and Taxation Code is amended to read:

25965. (a) A civil action in the name of the State of California to enjoin any corporation from further engaging in conduct subject to penalty under Section 25957 (relating to the penalty for promoting abusive tax shelters, etc.) or Section 25957.1 (relating to penalty for aiding and abetting understatement of tax liability) may be commenced at the request of the Franchise Tax Board. Any action under this section shall be brought in accordance with the provisions of Section 25963. The court may exercise its jurisdiction over that action separate and apart from any other action brought by the State of California against that corporation.

(b) In any action under subdivision (a), the court may enjoin that corporation from engaging in that conduct or in any other activity subject to penalty under Section 25957 or 25957.1 if the court finds both of the following:

(1) That the corporation has engaged in any conduct subject to penalty under Section 25957 (relating to penalty for promoting abusive tax shelters, etc.) or Section 25957.1 (relating to penalty for aiding and abetting understatement of tax liability).

(2) That injunctive relief is appropriate to prevent recurrence of that conduct.

SEC. 147. Section 328 is added to the Unemployment Insurance Code, to read:

328. (a) The department shall administer the California Jobs Tax Credit Act of 1979 as provided in this section, except those functions reserved to the Franchise Tax Board by Section 17053.7 or Section 24330 of the Revenue and Taxation Code. The department shall develop administrative procedures and guidelines necessary to carry out the intent of that act, including, but not limited to, the means to monitor and measure its effectiveness.

(b) The department shall certify, upon the request of any applicant, for the purposes of Section 17053.7 or 24330 of the Revenue and Taxation Code, that any individual, at the time of his or her hiring by that applicant, meets any of the following criteria:

(1) He or she is a recipient of aid under the Aid to Families with Dependent Children program pursuant to Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institu-

tions Code, for not less than 90 days immediately preceding his or her date of hire.

(2) He or she is a registrant in a work incentive program established pursuant to Section 5200.

(3) He or she is a recipient of aid under the Supplemental Security Income/State Supplementary Program for the Aged, Blind, and Disabled pursuant to Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code for any month which falls within the 60-day period immediately preceding his or her date of hire.

(4) He or she is a recipient, for at least 30 days during the 60-day period immediately preceding his or her date of hire, of general assistance (county aid and relief to indigents) pursuant to Part 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code, from a county whose program has been certified by the Internal Revenue Service for purposes of the federal Targeted Jobs Tax Credit program under Section 51 of the Internal Revenue Code.

(5) He or she is a "qualified summer youth employee" for purposes of the federal Targeted Jobs Tax Credit program as defined under Section 51(d)(12) of the Internal Revenue Code.

(c) If an individual has been certified as meeting any of the criteria in subdivision (b) and that certification is incorrect because it was based on false information provided by that individual, the certification shall be revoked, and the department shall immediately notify the applicant who requests the certification of the revocation.

SEC. 148. Section 927 of the Unemployment Insurance Code is amended to read:

927. "Wages" also means all tips which are received while performing services which constitute employment and included in a written statement furnished to the employer pursuant to Section 6053(a) of the Internal Revenue Code.

SEC. 149. Section 927.5 of the Unemployment Insurance Code is repealed.

SEC. 150. Section 6 of Chapter 1182 of the Statutes of 1979 is repealed.

SEC. 151. Sections 711 to 714, inclusive, of the Tax Reform Act of 1984 (Public Law 98-369) enacted numerous technical corrections to the Tax Equity and Fiscal Responsibility Act of 1982 (Public Law 97-248). Many of those technical corrections modify provisions of the Internal Revenue Code which are incorporated into Parts 10 (commencing with Section 17001) and 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code by specific reference to portions of the Internal Revenue Code. Unless specifically provided otherwise, those technical corrections made by Public Law 98-369 to the provisions which are incorporated by reference are declaratory of existing law and shall be applied in the same manner as specified in Public Law 98-369.

SEC. 152. Section 11.1 of this bill incorporates amendments to

Section 17063 of the Revenue and Taxation Code proposed by both this bill and AB 742. 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 17063 of the Revenue and Taxation Code, and (3) this bill is enacted after AB 742, in which case Section 17063 of the Revenue and Taxation Code, as amended by AB 742, shall remain operative only until the operative date of this bill, at which time Section 11.1 of this bill shall become operative, and Section 11 of this bill shall not become operative.

SEC. 153. (a) Section 21.1 of this bill incorporates amendments to Section 17240 of the Revenue and Taxation Code proposed by both this bill and AB 2091. 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 17240 of the Revenue and Taxation Code, (3) SB 172 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 2091, in which case Section 17240 of the Revenue and Taxation Code, as amended by AB 2091, shall remain operative only until the operative date of this bill, at which time Section 21.1 of this bill shall become operative, and Sections 21, 21.2, and 21.3 of this bill shall not become operative.

(b) Section 21.2 of this bill incorporates amendments to Section 17240 of the Revenue and Taxation Code proposed by both this bill and SB 172. 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 17240 of the Revenue and Taxation Code, (3) AB 2091 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 172 in which case Section 17240 of the Revenue and Taxation Code, as amended by SB 172, shall remain operative only until the operative date of this bill, at which time Section 21.2 shall become operative, and Sections 21, 21.1, and 21.3 of this bill shall not become operative.

(c) Section 21.3 of this bill incorporates amendments to Section 17240 of the Revenue and Taxation Code proposed by this bill, AB 2091, and SB 172. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1986, (2) all three bills amend Section 17240 of the Revenue and Taxation Code, and (3) this bill is enacted after AB 2091 and SB 172, in which case Section 17240 of the Revenue and Taxation Code, as amended by AB 2091 and SB 172, shall remain operative only until the operative date of this bill, at which time Section 21.3 of this bill shall become operative, and Sections 21, 21.1, and 21.2 of this bill shall not become operative.

SEC. 154. (a) Section 27.1 of this bill incorporates amendments to Section 17272 of the Revenue and Taxation Code proposed by both this bill and SB 1070. 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 17272 of the Revenue and Taxation Code, (3) AB 742 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 1070, in which case Section 17272

of the Revenue and Taxation Code, as amended by SB 1070, shall remain operative only until the operative date of this bill, at which time Section 27.1 of this bill shall become operative, and Sections 27, 27.2, and 27.3 of this bill shall not become operative.

(b) Section 27.2 of this bill incorporates amendments to Section 17272 of the Revenue and Taxation Code proposed by both this bill and AB 742. 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 17272 of the Revenue and Taxation Code, (3) SB 1070 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 742 in which case Section 17272 of the Revenue and Taxation Code, as amended by AB 742, shall remain operative only until the operative date of this bill, at which time Section 27.2 of this bill shall become operative, and Sections 27, 27.1, and 27.3 of this bill shall not become operative.

(c) Section 27.3 of this bill incorporates amendments to Section 17272 of the Revenue and Taxation Code proposed by this bill, SB 1070, and AB 742. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1986, (2) all three bills amend Section 17272 of the Revenue and Taxation Code, and (3) this bill is enacted after SB 1070 and AB 742, in which case Section 17272 of the Revenue and Taxation Code, as amended by SB 1070 and AB 742, shall remain operative only until the operative date of this bill, at which time Section 27.3 of this bill shall become operative, and Sections 27, 27.1, and 27.2 of this bill shall not become operative.

SEC. 155. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 1462

An act to amend Sections 17052.13, 17053.8, 17053.9, 17053.11, 17252.5, 17260, 17265, 17276.5, 17552.5, 18036, 18037, 23612, 24331, 24333, 24356.2, 24356.3, 24417, and 24916 of, to add Sections 17231 and 24384 to, and to repeal Sections 17148, 17150, 17260.1, 17556, and 24313 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

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

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

SECTION 1. Section 17052.13 of the Revenue and Taxation Code is amended to read:

17052.13. (a) There shall be allowed as a credit against the "net tax" (as defined in Section 17039) for the taxable year the amount

equal to the sales or use tax paid or incurred by the taxpayer in connection with the purchase of qualified property.

(b) For purposes of this section:

(1) "Taxpayer" means either of the following:

(A) A qualified business as defined in Section 7082 of the Government Code.

(B) A person or entity engaged in a trade or business within an enterprise zone designated pursuant to Section 7073 of the Government Code.

(2) "Qualified property" means machinery and machinery parts used for fabricating, processing, assembling, and manufacturing, and machinery and machinery parts used for the production of renewable energy resources or air or water pollution control mechanisms, up to a value of one million dollars ($1,000,000), which, in the case of a taxpayer described in subparagraph (A) of paragraph (1), is used exclusively in a program area, and, in the case of a taxpayer described in subparagraph (B) of paragraph (1), is used exclusively in an enterprise zone.

(c) If the taxpayer has purchased property upon which a use tax has been paid or incurred, the credit provided under subdivision (a) shall be allowed only if qualified property of a comparable quality and price is not timely available for purchase in this state.

(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 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.

(e) Any taxpayer who elects to be subject to this section shall not be entitled to claim a deduction pursuant to Section 17201 with respect to sales or use tax paid or incurred in connection with the purchase of qualified property.

(f) In the case of a taxpayer described in subparagraph (A) of paragraph (1) of subdivision (b), the amount of the credit provided by this section in any taxable year shall not exceed the amount of tax which would be imposed on the income attributed to business activities of the taxpayer within the program area (as defined in Section 7082 of the Government Code) as if that attributed income represented all of the net income of the taxpayer subject to tax under this part. The amount of that attributed income shall be determined in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17 of Part 11.

(g) In the case of a taxpayer described in subparagraph (B) of paragraph (1) of subdivision (b), the amount of the credit provided by this section in any taxable year shall not exceed the amount of tax which would be imposed on the income attributed to business activities of the taxpayer within an enterprise zone (designated pursuant to Section 7073 of the Government Code) as if that attributed income represented all of the net income of the taxpayer subject to tax under this part. The amount of that attributed income

shall be determined in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17 of Part 11.

SEC. 2. Section 17053.8 of the Revenue and Taxation Code is amended to read:

17053.8. (a) There shall be allowed as credit against the "net tax" (as defined in Section 17039) for the taxable year an amount equal to the sum of each of the following:

(1) Fifty percent for qualified wages in year 1.

(2) Forty percent for qualified wages in year 2.

(3) Thirty percent for qualified wages in year 3.

(4) Twenty percent for qualified wages in year 4.

(5) Ten percent for qualified wages in year 5.

(b) For purposes of this section:

(1) "Qualified wages" means the wages paid or incurred by the employer during the taxable year to qualified disadvantaged individuals reduced by the amount of any federally funded payments the employer receives or is entitled to receive for on-the-job training of those individuals for that period. "Qualified wages" means that portion of wages which does not exceed 150 percent of the minimum wage.

(2) "Qualified years 1 through 5 wages" means, with respect to any individual, qualified wages received during the 60-month period beginning with the day the individual commences employment within an enterprise zone.

(3) "Minimum wage" means the wage established by the Industrial Welfare Commission as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(c) For purposes of this section:

(1) "Qualified disadvantaged individual" means an individual—

(A) Who is a qualified employee within the meaning of subdivision (d).

(B) Who is hired by the employer after the designation of the area in which services were performed as an enterprise zone (under Section 7073 of the Government Code).

(C) Who, without regard to the date of hiring, is either of the following:

(i) An employee described in Section 17053.7, as that section read on January 1, 1985, or an employee described in Section 17053.7, as of the last date that section is amended if that section is amended after January 1, 1985.

(ii) An employee described in Section 51(d) of the Internal Revenue Code, as that section read on January 1, 1985, or an employee described in Section 51(d) of the Internal Revenue Code, as amended after January 1, 1985, if the Legislature should so provide in its annual review of federal income tax legislation.

(d) For purposes of this section: "qualified employee" means an individual—

(1) At least 90 percent of whose services for the taxpayer during

the taxable year are directly related to the conduct of the taxpayer's trade or business located in an enterprise zone, and

(2) Who performs at least 50 percent of his or her services for the taxpayer during the taxable year in an enterprise zone.

(e) (1) For purposes of this section:

(A) All employees of trades or businesses (which are not incorporated) which are under common control shall be treated as employed by a single employer, and

(B) The credit (if any) allowable by this section with respect to each trade or business shall be determined by reference to its proportionate share of the qualified wages giving rise to the credit.

The regulations prescribed under this paragraph shall be based on principles similar to the principles which apply in the case of controlled groups of corporations as specified in subdivision (e) of Section 24331.

(2) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the "predecessor") or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (f)) for any calendar year ending after that acquisition, the employment relationship between an employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(f) (1) If the employment of any employee, with respect to whom qualified wages are taken into account under subdivision (a) is terminated by the taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that employee completes 90 days of employment with the taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount (determined under those regulations) equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that employee.

(2) (A) Paragraph (1) shall not apply to any of the following:

(i) A termination of employment of an employee who voluntarily leaves the employment of the taxpayer.

(ii) A termination of employment of an individual who, before the close of the period referred to in paragraph (1), becomes disabled to perform the services of that employment, unless that disability is removed before the close of that period and the taxpayer fails to offer reemployment to that individual.

(iii) A termination of employment of an individual, if it is determined under the applicable employment compensation provisions that the termination was due to the misconduct of that individual.

(iv) A termination of employment of an individual due to a substantial reduction in the trade or business operations of the taxpayer.

(v) A termination of employment of an individual, if that individual is replaced by other qualified employees so as to create a net increase in both the number of employees and the hours of employment.

(B) For purposes of paragraph (1), the employment relationship between the taxpayer and an employee shall not be treated as terminated by reason of a mere change in the form of conducting the trade or business of the taxpayer, if the employee continues to be employed in that trade or business and the taxpayer retains a substantial interest in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(g) In the case of an estate or trust—

(A) The qualified wages for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each, and

(B) Any beneficiary to whom any qualified wages have been apportioned under paragraph (A) shall be treated (for purposes of this part) as the employer with respect to those wages.

(h) For purposes of this section, "enterprise zone" means an area for which designation as an enterprise zone is in effect under Section 7073 of the Government Code.

(i) The credit shall be reduced by the credit allowed under Section 17053.7. The credit shall also be reduced by the credit allowed under Section 51 of the Internal Revenue Code.

In addition, no deduction shall be allowed as provided in Section 162 of the Internal Revenue Code for that portion of the wages or salaries paid or incurred for the taxable year upon which the credit is based.

(j) 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 for the number of taxable years in which the designation of an enterprise zone under Section 7073 of the Government Code is operative, or 15 taxable years, if longer, until the credit is used. The credit shall be applied first to the earliest taxable years possible.

(k) The amount of the credit allowed by this section in any taxable year shall not exceed the amount of tax which would be imposed on the income attributed to business activities of the taxpayer within the enterprise zone (as defined in Section 7073 of the Government Code) as if that attributed income represented all of the net income of the taxpayer subject to tax under this part. The amount of that attributed income shall be determined in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17 of Part 11.

SEC. 3. Section 17053.9 of the Revenue and Taxation Code is amended to read:

17053.9. (a) In the case of a qualified employee, there is allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 5 percent of the qualified wages for the taxable year.

(b) For purposes of this section:

(1) "Qualified employee" means an individual—

(A) Who is described in subdivision (d) of Section 17053.8.

(B) Who is not an employee of the federal government or of this state or of any political subdivision of this state.

(2) (A) "Qualified wages" has the meaning given to the term "wages" under subsection (b) of Section 3306 of the Internal Revenue Code, attributable to services performed for an employer with respect to whom the employee is a qualified employee, in an amount which does not exceed one and one-half times the dollar limitation specified in that subsection.

(B) "Qualified wages" does not include any compensation received from the federal government or this state or any political subdivision of this state.

(3) "Enterprise zone" means any area with respect to which a designation as an enterprise zone is in effect under Section 7073 of the Government Code.

(c) For each dollar of income received by the taxpayer in excess of qualified wages, as defined in this section, the credit shall be reduced by nine cents ($0.09).

(d) The amount of the credit allowed by this section in any taxable year shall not exceed the amount of tax which would be imposed on the income of the employee attributable to employment within the enterprise zone as if that income represented all of the net income of the taxpayer subject to tax under this part.

SEC. 4. Section 17053.11 of the Revenue and Taxation Code is amended to read:

17053.11. (a) There shall be allowed as a credit against the "net tax" (as defined in Section 17039) for the taxable year the amount determined in subdivisions (c) and (d) for a qualified business which hires a qualified employee.

(b) For purposes of this section:

(1) "Qualified business" means a qualified business, as defined in Section 7082 of the Government Code, and any financial institution which, except for the prohibition contained in subdivision (i) of Section 7082 of the Government Code, otherwise meets that definition.

(2) "Qualified employee" means an employee who has been an unemployed resident of a high density unemployment area (as defined in Section 7082 of the Government Code) prior to being employed by the qualified business.

(c) The credit provided for each qualified employee who has been unemployed for at least six months prior to being employed and has been hired pursuant to subdivision (a), shall be as follows:

(1) Twelve percent of qualified wages for the first six months of

employment.

(2) Twelve percent of qualified wages for the second six months of employment.

(3) Seven percent of qualified wages for the second year of employment.

(d) The credit provided for each qualified employee who has been unemployed for at least three months but less than six months prior to being employed shall be 5 percent of qualified wages for the first year of employment; however, the credit for the second year of employment shall be that provided in paragraph (3) of subdivision (c).

(e) For purposes of this section, "qualified wages" means that portion of wages not in excess of 150 percent of the minimum wage paid or incurred by the qualified business during the taxable year to the qualified employee.

(f) (1) If the employment of any employee with respect to whom qualified wages are taken into account under subdivision (c) is terminated by the taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that employee completes 90 days of employment with the taxpayer, the tax imposed by this part for the income year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that employee.

(2) Paragraph (1) shall not apply to any of the following:

(A) A termination of employment of an employee who voluntarily leaves the employment of the taxpayer.

(B) A termination of employment of an individual who, before the close of the period referred to in paragraph (1), becomes disabled to perform the services of that employment, unless that disability is removed before the close of that period and the taxpayer fails to offer reemployment to that individual.

(C) A termination of employment of an individual, if it is determined under the applicable unemployment compensation provisions that the termination was due to the misconduct of that individual.

(D) A termination of employment of an individual due to a substantial reduction in the trade or business operations of the taxpayer.

(E) A termination of employment of an individual, if that individual is replaced by other qualified employees so as to create a net increase in both number of employees and hours of employment.

(g) 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 taxable years possible.

(h) The amount of the credit allowed by this section for any taxable year shall not exceed the amount of tax which would be imposed on the income attributed to business activities of the taxpayer within the program area (as defined in Section 7082 of the Government Code) as if that attributed income represented all of the net income of the taxpayer subject to tax under this part. The amount of that attributed income shall be determined in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17 of Part 11.

SEC. 5. Section 17148 of the Revenue and Taxation Code is repealed.

SEC. 6. Section 17150 of the Revenue and Taxation Code is repealed.

SEC. 7. Section 17231 is added to the Revenue and Taxation Code, to read:

17231. (a) There shall be allowed as a deduction the amount of net interest received by the taxpayer in payment on indebtedness of either of the following:

(1) A qualified business (as defined in Section 7082 of the Government Code).

(2) A person or entity engaged in the conduct of a trade or business located in an enterpise zone (as defined in Section 7073 of the Government Code).

(b) No deduction shall be allowed under subdivision (a) unless at the time the indebtedness is incurred each of following requirements are met:

(A) The qualified business is located solely within a targeted economic development area or a neighborhood economic development area (as defined in Section 7082 of the Government Code), or the trade or business is located solely within an enterprise zone (as defined in Section 7073 of the Government Code).

(B) The indebtedness is incurred solely in connection with activity within the targeted economic development area, neighborhood economic development area, or enterprise zone.

(C) The taxpayer has no equity or other ownership interest in the debtor.

SEC. 8. Section 17252.5 of the Revenue and Taxation Code is amended to read:

17252.5. (a) A taxpayer may elect to treat the cost of any Section 17252.5 property as an expense which is not chargeable to capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which Section 17252.5 property is placed in service.

(b) In the case of a husband or wife filing separate returns for a taxable year in which a spouse is entitled to the deduction under subdivision (a), the applicable amount shall be equal to 50 percent of the amount otherwise determined under subdivision (a).

(c) (1) An election under this section for any taxable year shall—

(A) Specify the items of Section 17252.5 property to which the election applies and the portion of the cost of each of those items

which is to be taken into account under subdivision (a), and

(B) Be made on the taxpayer's return of the tax imposed by this part for the taxable year.

(2) Any election made under this section, and any specification contained in that election, may not be revoked except with the consent of the Franchise Tax Board.

(d) (1) For purposes of this section, "Section 17252.5 property" means any recovery property which is Section 38 property under the terms of the Internal Revenue Code and which is acquired by purchase for exclusive use in a trade or business conducted within an enterprise zone designated pursuant to Section 7073 of the Government Code.

(2) For purposes of paragraph (1), "purchase" means any acquisition of property, but only if—

(A) The property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under Section 267 or 707(b) of the Internal Revenue Code (but, in applying subsections (b) and (c) of Section 267 of the Internal Revenue Code for purposes of this section, Section 267(c)(4) of the Internal Revenue Code shall be treated as providing that the family of an individual shall include only his spouse, ancestors, and lineal descendants),

(B) The basis of the property in the hands of the person acquiring it is not determined—

(i) In whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or

(ii) Under Sections 18031 through 18033 (relating to property acquired from a decedent).

(3) For purposes of this section, the cost of property does not include so much of the basis of the property as is determined by reference to the basis of other property held at any time by the person acquiring the property.

(4) This section shall not apply to estates and trusts.

(5) This section shall not apply to any Section 17252.5 property purchased by any person described in Section 46(e)(3) of the Internal Revenue Code unless the credit under Section 38 of the Internal Revenue Code is allowable with respect to that person from that property (determined without regard to this section).

(6) In the case of a partnership, the dollar limitation contained in paragraph (1) of subdivision (b) shall apply with respect to the partnership and with respect to each partner.

(e) For purposes of this section, "taxpayer" means a taxpayer who conducts a trade or business within an enterprise zone designated pursuant to Section 7073 of the Government Code.

(f) Any taxpayer who elects to be subject to this section shall not be entitled to claim additional depreciation pursuant to Section 17252 with respect to any property which constitutes Section 17252.5 property.

(g) The deduction allowable under subdivision (a) for any taxable

year shall not exceed the following applicable amount for the taxable year of the designation of an enterprise zone and taxable years thereafter:

	The applicable amount is:
Taxable year of designation	$ 5,000
1st taxable year thereafter	5,000
2nd taxable year thereafter	7,500
3rd taxable year thereafter	7,500
Each taxable year thereafter	10,000

(h) This section shall apply only to property which is used exclusively in a trade or business conducted within an enterprise zone.

(i) Any amounts deducted under subdivision (a) with respect to property which ceases to be used in the trade or business within an enterprise zone at any time before the close of the second taxable year after the property was placed in service shall be included in income for that year.

SEC. 9. Section 17260 of the Revenue and Taxation Code is amended to read:

17260. (a) No deduction, other than depreciation shall be allowed for any of the following:

(1) Expenditures for tertiary injectants as provided by Section 193 of the Internal Revenue Code.

(2) Expenditures for certain depreciable business assets as provided by Section 179 of the Internal Revenue Code.

(b) No deduction shall be allowed for expenditures for which a deduction is allowed under Section 17252.5 or 17265.

SEC. 10. Section 17260.1 of the Revenue and Taxation Code is repealed.

SEC. 11. Section 17265 of the Revenue and Taxation Code is amended to read:

17265. (a) A taxpayer may elect to treat 40 percent of the cost of any Section 17265 property as an expense which is not chargeable to capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the Section 17265 property is placed in service.

(b) In the case of a husband and wife filing separate returns for a taxable year, the applicable amount under subdivision (a) shall be equal to 50 percent of the percentage specified in subdivision (a).

(c) (1) An election under this section for any taxable year shall—

(A) Specify the items of Section 17265 property to which the election applies and the percentage of the cost of each of those items which is to be taken into account under subdivision (a).

(B) Be made on the taxpayer's return of the tax imposed by this part for the taxable year.

This election shall be made in the time, form, and manner which the Franchise Tax Board may prescribe.

(2) Any election made under this section, and any specification contained in that election, may not be revoked except with the consent of the Franchise Tax Board.

(d) (1) For purposes of this section, "Section 17265 property" means property acquired by the taxpayer which is used exclusively within a program area (as defined in Section 7082 of the Government Code) and consists of machinery and machinery parts used for fabricating, processing, assembling, and manufacturing machinery and machinery parts used for the production of renewable energy resources or air or water pollution control mechanisms.

"Section 17265 property" also means property used as an integral part of a qualified business within a program area (as defined in Section 7082 of the Government Code).

(2) For purposes of paragraph (1), "purchase" means any acquisition of property, but only if—

(A) The property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under Section 267 or Section 707(b) of the Internal Revenue Code (but, in applying Sections 267(b) and 267(c) for purposes of this section, Section 267(c)(4) shall be treated as providing that the family of an individual shall include only the individual's spouse, ancestors, and lineal descendants),

(B) The basis of the property in the hands of the person acquiring it is not determined—

(i) In whole or in part by reference to the adjusted basis of that property in the hands of the person from whom it is acquired, or

(ii) Under Sections 18032 and 18033 (relating to property acquired from a decedent).

(3) For purposes of this section, the cost of property does not include so much of the basis of the property as is determined by reference to the basis of other property held at any time by the person acquiring the property.

(4) This section shall not apply to estates and trusts.

(5) This section shall not apply to any Section 17265 property purchased by any person described in Section 46(e)(3) of the Internal Revenue Code unless the credit under Section 38 of the Internal Revenue Code is allowable with respect to that person from that property (determined without regard to this section).

(6) In the case of a partnership, the percentage limitation specified in subdivision (a) shall apply with respect to the partnership and with respect to each partner.

(e) For purposes of this section, "taxpayer" means a taxpayer who conducts a qualified business within a program area (as defined in Section 7082 of the Government Code).

(f) Any taxpayer who elects to be subject to this section shall not be entitled to claim additional depreciation pursuant to Section 17252 with respect to any property which constitutes Section 17265 property; however, the taxpayer may claim depreciation by any method permitted by Section 17250, commencing with the taxable

year following the taxable year in which the Section 17265 property is placed in service.

(g) The aggregate cost which may be taken into account under subdivision (a) for any taxable year shall not exceed the following applicable amount for the taxable year of the designation of a program area and taxable years thereafter:

	The applicable amount is:
Taxable year of designation	$100,000
1st taxable year thereafter	100,000
2nd taxable year thereafter	75,000
3rd taxable year thereafter	75,000
Each taxable year thereafter	50,000

(h) Any amounts deducted under subdivision (a) with respect to property which ceases to be qualified property at any time before the close of the second taxable year after the property is placed in service shall be included in income for that year.

SEC. 12. Section 17276.5 of the Revenue and Taxation Code is amended to read:

17276.5. The term "qualified taxpayer" as used in Section 17276 means any one of the following:

(a) A taxpayer engaged in a new small business.

(1) A net operating loss of a new small business shall not be a net operating loss carryback to any taxable year and shall be a net operating loss carryover to each of the 15 taxable years following the taxable year of the loss.

(A) A net operating loss may be carried over only by the individual or legal entity incurring the net operating loss.

(B) A net operating loss deduction by a taxpayer shall be allowed only for losses occurring within the first 24 months of active operation of the small business.

(C) The total amount of net operating loss a new small business may carry over pursuant to Section 17276 beginning on or after January 1, 1984, and thereafter, shall not exceed an aggregate of one hundred thousand dollars ($100,000) for all taxable years.

(2) For purposes of this subdivision, the definition of "small business" established by the Department of General Services shall apply, with the following modifications:

(A) A taxpayer shall qualify as a "small business" if the gross receipts for the initial year of operation do not exceed one-third of the maximum receipts specified in Sections 1896(a) and 1896(m) (1) (B) of subchapter 8 of Title 2 of the California Administrative Code for the applicable industry group. If the maximum receipts specified are modified at any time during the taxable year, the amount stated at the end of the taxable year shall apply.

(B) Where the initial calendar year of operation is less than 12 months, gross receipts for that year shall be annualized for purposes

of applying subparagraph (A).

(C) The taxpayer shall bear the burden of furnishing all information in support of a claim that it qualifies as a new "small business" as defined in this subdivision.

The term "new small business" does not include any business or corporation which, for tax purposes only, liquidates its assets, in whole or in part, in anticipation of an operating loss and then subsequently reorganizes that portion of the business or corporation under a new name.

(3) No net operating loss deduction shall be allowed for any loss which occurs prior to January 1, 1984, or for any loss which occurs in any taxable year beginning prior to January 1, 1984.

(4) For purposes of this subdivision, "net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 17276, attributable to a new small business.

(b) A taxpayer engaged in the conduct of a qualified business within a program area (as defined in Section 7082 of the Government Code).

(1) A net operating loss shall not be a net operating loss carryback to any taxable year and a net operating loss for any taxable year beginning on or after the date that the taxpayer becomes a qualified business shall be a net operating loss carryover to each of the 15 taxable years following the taxable year of loss.

(2) For purposes of this subdivision:

(A) "Net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 17276, attributable to the business activities of the taxpayer within the program area (as defined in Section 7082 of the Government Code). That attributed loss shall be determined in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17 of Part 11.

(B) A net operating loss carryover shall be a deduction only with respect to income attributed to the business activities of the taxpayer within the program area (as defined in Section 7082 of the Government Code) determined in accord with the factor formula apportionment method provided in Article 2 (commencing with Section 25120) of Chapter 17 of Part 11.

(3) No net operating loss deduction shall be allowed for any loss which occurs prior to January 1, 1984, or for any loss which occurs in any taxable year beginning prior to January 1, 1984.

(c) A taxpayer who is engaged in the conduct of a trade or business within an enterprise zone designated pursuant to Section 7073 of the Government Code on or after that designation.

(1) A net operating loss shall not be a net operating loss carryback to any taxable year and a net operating loss for any taxable year beginning on or after the date that the area in which the taxpayer conducts a trade or business is designated an enterprise zone shall be a net operating loss carryover to each following taxable year that ends before the expiration or revocation of the designation of the

enterprise zone under Section 7073 of the Government Code or to each of 15 taxable years following the taxable year of loss, if longer.

(2) For purposes of this subdivision:

(A) "Net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 17276, attributable to the business activities of the taxpayer within the enterprise zone (as defined in Section 7073 of the Government Code). The attributed loss shall be determined in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17 of Part 11.

(B) A net operating loss carryover shall be a deduction only with respect to income attributed to the business activities of the taxpayer within the enterprise zone (as defined in Section 7073 of the Government Code) determined in accordance with the factor formula apportionment method provided in Article 2 (commencing with Section 25120) of Chapter 17 of Part 11.

(3) No net operating loss deduction shall be allowed for any loss which occurs prior to January 1, 1984, or for any loss which occurs in any taxable year beginning prior to January 1, 1984.

(d) A taxpayer who qualifies as a "qualified taxpayer" shall, for the taxable year of the net operating loss and any taxable year to which that net operating loss may be carried, designate on the return filed for each year the subdivision of this section which applies to that taxpayer with respect to that net operating loss. If the taxpayer is eligible to qualify under more than one subdivision of this section, the designation is to be made after taking into account the election required by subdivision (e) and shall be consistent with that election.

(e) If a taxpayer is eligible to qualify under more than one subdivision of this section as a "qualified taxpayer," with respect to a net operating loss in a taxable year, the taxpayer shall elect which subdivision of this section is to apply to the taxpayer. The election is to be made in a statement attached to the original return, timely filed, for the year the net operating loss is incurred and shall be irrevocable.

SEC. 13. Section 17552.5 of the Revenue and Taxation Code is amended to read:

17552.5. The provisions of Section 453 of the Internal Revenue Code, relating to installment sales, shall be modified to incorporate the following provisions:

(a) In the case of an installment sale of Section 17252.5 or 17265 property, the provisions of Section 453(a) of the Internal Revenue Code shall not be applicable, and for purposes of this part, all payments to be received shall be deemed received in the year of disposition.

(b) Subdivision (a) shall apply only to the extent of the amounts allowed as deductions under Section 17252.5 with respect to Section 17252.5 property and Section 17265 with respect to Section 17265 property.

SEC. 14. Section 17556 of the Revenue and Taxation Code is re-

pealed.

SEC. 15. 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. A proper adjustment shall also be made for amounts deducted under Sections 17252.5 and 17265.

(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.

(c) The provisions of Section 1016(c) of the Internal Revenue Code, relating to increase in basis of property on which additional estate tax is imposed, shall not be applicable.

SEC. 16. Section 18037 of the Revenue and Taxation Code is amended to read:

18037. The provisions of Section 1033(g)(3)(A) of the Internal Revenue Code, relating to the election to treat outdoor advertising displays as real property, shall be modified as follows:

(a) The election shall not be denied because the taxpayer has, on his or her federal return, claimed an investment credit or elected to expense the asset.

(b) The election shall not be allowed if an election is in effect for that property under Section 17252, relating to an additional first-year depreciation allowance.

SEC. 17. Section 23612 of the Revenue and Taxation Code is amended to read:

23612. (a) There shall be allowed as a credit against the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) for the year an amount equal to the sales or use tax paid or incurred by the taxpayer in connection with the purchase of qualified property.

(b) For purposes of this section:

(1) "Taxpayer" means either of the following:

(A) A qualified business as defined in Section 7082 of the Government Code.

(B) A bank or corporation engaged in a trade or business within an enterprise zone designated pursuant to Section 7073 of the Government Code.

(2) "Qualified property" means machinery and machinery parts

used for fabricating, processing, assembling, and manufacturing and machinery and machinery parts used for the production of renewable energy resources or air or water pollution control mechanisms, up to a value of twenty million dollars ($20,000,000), which, in the case of a taxpayer described in subparagraph (A) of paragraph (1), is used exclusively in a program area, and, in the case of a taxpayer described in subparagraph (B) of paragraph (1), is used exclusively in an enterprise zone.

(c) If the taxpayer has purchased property upon which a use tax has been paid or incurred, the credit provided under subdivision (a) shall be allowed only if qualified property of a comparable quality and price is not timely available for purchase in this state.

(d) In the case where the credit allowed under this section exceeds the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) for the year, that portion of the credit which exceeds those 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 years, until the credit is used. The credit shall be applied first to the earliest years possible.

(e) Any taxpayer who elects to be subject to this section shall not be entitled to claim a deduction pursuant to Section 24345 with respect to sales or use tax paid or incurred in connection with the purchase of qualified property.

(f) In the case of a taxpayer described in subparagraph (A) of paragraph (1) of subdivision (b), the amount of the credit provided by this section shall not in any year exceed the amount of tax which would be imposed on the income attributed to business activities of the taxpayer within the program area (as defined in Section 7082 of the Government Code). The amount of that attributed income shall be determined in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17.

(g) In the case of a taxpayer described in subparagraph (B) of paragraph (1) of subdivision (b), the amount of the credit provided by this section in any year shall not exceed the amount of tax which would be imposed on the income attributed to business activities of the taxpayer within the enterprise zone (designated pursuant to Section 7073 of the Government Code). The amount of that attributed income shall be determined in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17.

SEC. 18. Section 24313 of the Revenue and Taxation Code is repealed.

SEC. 19. Section 24331 of the Revenue and Taxation Code is amended to read:

24331. (a) There shall be allowed as a credit against the tax imposed by this part for the year (except the minimum franchise tax and the tax on preference income) an amount equal to the sum of each of the following:

(1) Fifty percent for qualified wages in year 1.

(2) Forty percent for qualified wages in year 2.

(3) Thirty percent for qualified wages in year 3.
(4) Twenty percent for qualified wages in year 4.
(5) Ten percent for qualified wages in year 5.
(b) For purposes of this section:
(1) "Qualified wages" means the wages paid or incurred by the employer during the income year to qualified disadvantaged individuals reduced by the amount of any federally funded payments the employer receives or is entitled to receive for on-the-job training of these individuals for that period. "Qualified wages" means that portion of wages which does not exceed 150 percent of the minimum wage.
(2) "Qualified years 1 through 5 wages" means, with respect to any individual, qualified wages received during the 60-month period beginning with the day the individual commences employment within an enterprise zone.
(3) "Minimum wage" means the wage established by the Industrial Welfare Commission as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.
(c) For purposes of this section:
(1) "Qualified disadvantaged individual" means an individual—
(A) Who is a qualified employee within the meaning of subdivision (d).
(B) Who is hired by the employer after the designation of the area in which services were performed as an enterprise zone (under Section 7073 of the Government Code).
(C) Who, without regard to the date of hiring, is either of the following:
(i) An employee described in Section 24330, as that section read on January 1, 1985, or an employee described in Section 24330, as of the last date that section is amended if that section is amended after January 1, 1985.
(2) An employee described in Section 51(d) of the Internal Revenue Code, as that section read on January 1, 1985, or an employee described in Section 51(d) of the Internal Revenue Code, as amended after January 1, 1985, if the Legislature should so provide in its annual review of federal income tax legislation.
(d) For purposes of this section, "qualified employee" means an individual—
(1) At least 90 percent of whose services for the taxpayer during the income year are directly related to the conduct of the taxpayer's trade or business located in an enterprise zone.
(2) Who performs at least 50 percent of his or her services for the taxpayer during the income year in an enterprise zone.
(e) (1) For purposes of this section, all employees of all corporations which are members of the same controlled group of corporations shall be treated as employed by a single employer. In any such case, the credit (if any) allowable by this section to each member shall be determined by reference to its proportionate share of the qualified wages giving rise to the credit. For purposes of this subdivi-

sion, "controlled group of corporations" has the meaning given to that term by Section 1563(a) of the Internal Revenue Code, except that—

(A) "More than 50 percent" shall be substituted for "at least 80 percent" each place it appears in Section 1563(a)(1) of the Internal Revenue Code.

(B) The determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal Revenue Code.

(2) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the "predecessor") or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (f)) for any calendar year ending after that acquisition, the employment relationship between an employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(f) (1) If the employment of any employee with respect to whom qualified wages are taken into account under subdivision (a) is terminated by the taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that employee completes 90 days of employment with the taxpayer, the tax imposed by this part for the income year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that income year and all prior income years attributable to qualified wages paid or incurred with respect to that employee.

(2) (A) Paragraph (1) shall not apply to any of the following:

(i) A termination of employment of an employee who voluntarily leaves the employment of the taxpayer.

(ii) A termination of employment of an individual who, before the close of the period referred to in paragraph (1), becomes disabled to perform the services of that employment, unless that disability is removed before the close of that period and the taxpayer fails to offer reemployment to that individual.

(iii) A termination of employment of an individual, if it is determined under the applicable unemployment compensation provisions that the termination was due to the misconduct of that individual.

(iv) A termination of employment of an individual due to a substantial reduction in the trade or business operations of the taxpayer.

(v) A termination of employment of an individual, if that individual is replaced by other qualified employees so as to create a net increase in both the number of employees and the hours of employment.

(B) For purposes of paragraph (1), the employment relationship between the taxpayer and an employee shall not be treated as terminated—

(i) By a transaction to which Section 381 (a) of the Internal Revenue Code applies, if the employee continues to be employed by the acquiring corporation, or

(ii) By reason of a mere change in the form of conducting the trade or business of the taxpayer, if the employee continues to be employed in that trade or business and the taxpayer retains a substantial interest in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(g) In the case of—

(1) An organization to which Section 593 of the Internal Revenue Code applies, and

(2) A regulated investment company or a real estate investment trust subject to taxation under this part

rules similar to the rules provided in subsections (e) and (h) of Section 46 of the Internal Revenue Code shall apply.

(h) For purposes of this section, "enterprise zone" means an area for which designation as an enterprise zone is in effect under Section 7073 of the Government Code.

(i) The credit shall be reduced by the credit allowed under Section 24330. The credit shall also be reduced by any credit allowed under Section 51 of the Internal Revenue Code.

In addition, no deduction shall be allowed under Section 24343 for that portion of the wages or salaries paid or incurred for the income year upon which the credit allowable under this section is based.

(j) In the case where the credit allowed under this section exceeds the taxes imposed by this part for the year (except the minimum franchise tax and the tax on preference income) that portion of the credit which exceeds those 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 years for the number of years in which the designation of an enterprise zone under Section 7073 of the Government Code is operative, or 15 income years, if longer, until the credit is used. The credit shall be applied first to the earliest years possible.

(k) The amount of the credit provided by this section shall not in any year exceed the amount of tax which would be imposed on the income attributed to business activities of the taxpayer within the enterprise zone (as defined in Section 7073 of the Government Code). The amount of that attributed income shall be determined in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17.

SEC. 20. Section 24333 of the Revenue and Taxation Code is amended to read:

24333. (a) There shall be allowed as a credit against the tax imposed by this part for the year (except the minimum franchise tax and the tax on preference income) for the year the amount determined in subdivisions (c) and (d) for a qualified business which hires

a qualified employee.

(b) For purposes of this section:

(1) "Qualified business" means a qualified business, as defined in Section 7082 of the Government Code, and any financial institution which, except for the prohibition contained in subdivision (i) of Section 7082 of the Government Code, otherwise meets that definition.

(2) "Qualified employee" means an employee who has been an unemployed resident of a high density unemployment area (as defined in Section 7082 of the Government Code) prior to being employed by the qualified business.

(c) The credit provided for each qualified employee who has been unemployed for at least six months prior to being employed pursuant to subdivision (a) shall be as follows:

(1) Twelve percent of qualified wages for the first six months of employment.

(2) Twelve percent of qualified wages for the second six months of employment.

(3) Seven percent of qualified wages for the second year of employment.

(d) The credit provided for each qualified employee who has been unemployed for at least three months but less than six months prior to being employed shall be 5 percent of qualified wages for the first year of employment; however, the credit for the second year of employment shall be that provided in paragraph (3) of subdivision (c).

(e) For purposes of this section, "qualified wages" means that portion of wages not in excess of 150 percent of the minimum wage paid or incurred by the qualified business during the income year to the qualified employee.

(f) (1) If the employment of any employee with respect to whom qualified wages are taken into account under subdivision (c) is terminated by the taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that employee completes 90 days of employment with the taxpayer, the tax imposed by this part for the income year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that income year and all prior income years attributable to qualified wages paid or incurred with respect to that employee.

(2) Paragraph (1) shall not apply to any of the following:

(A) A termination of employment of an employee who voluntarily leaves the employment of the taxpayer.

(B) A termination of employment of an individual who, before the close of the period referred to in paragraph (1), becomes disabled to perform the services of that employment, unless that disability is removed before the close of that period and the taxpayer fails to offer reemployment to that individual.

(C) A termination of employment of an individual, if it is determined under the applicable unemployment compensation provisions that the termination was due to the misconduct of that individual.

(D) A termination of employment of an individual due to a substantial reduction in the trade or business operations of the taxpayer.

(E) A termination of employment of an individual, if that individual is replaced by other qualified employees so as to create a net increase in both number of employees and hours of employment.

(g) In the case where the credit allowed under this section exceeds the taxes imposed by this part for the year (except the minimum franchise tax and the tax on preference income) that portion of the credit which exceeds those 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 years until the credit is used. The credit shall be applied first to the earliest years possible.

(h) The amount of the credit allowed by this section for any year shall not exceed the amount of tax which would be imposed on the income attributed to business activities of the taxpayer within the program area (as defined in Section 7082 of the Government Code) as if that attributed income represented all of the net income of the taxpayer subject to tax under this part. The amount of that attributed income shall be determined in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17.

SEC. 21. Section 24356.2 of the Revenue and Taxation Code is amended to read:

24356.2. (a) A taxpayer may elect to treat the cost of any Section 24356.2 property as an expense which is not chargeable to capital account. Any cost so treated shall be allowed as a deduction for the income year in which the Section 24356.2 property is placed in service.

(b) (1) An election under this section for any income year shall—

(A) Specify the items of Section 24356.2 property to which the election applies and the portion of the cost of each of those items which is to be taken into account under subdivision (a), and

(B) Be made on the taxpayer's return of the tax imposed by this part for the income year.

(2) Any election made under this section, and any specification contained in that election, may not be revoked except with the consent of the Franchise Tax Board.

(c) (1) For purposes of this section, "Section 24356.2 property" means any recovery property which is Section 38 property under the terms of the Internal Revenue Code and which is acquired by purchase for exclusive use in a trade or business conducted within an enterprise zone designated pursuant to Section 7073 of the Government Code.

(2) For purposes of paragraph (1), "purchase" means any acquisition of property, but only if—

(A) The property is not acquired from a person whose relation-

ship to the person acquiring it would result in the disallowance of losses under Section 24427 through 24429 (but, in applying Sections 24428 and 24429 for purposes of this section, subdivision (d) of Section 24429 shall be treated as providing that the family of an individual shall include only his spouse, ancestors, and lineal descendants),

(B) The property is not acquired by one component member of an affiliated group from another component member of the same affiliated group, and

(C) The basis of the property in the hands of the person acquiring it is not determined in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired.

(3) For purposes of this section, the cost of property does not include so much of the basis of that property as is determined by reference to the basis of other property held at any time by the person acquiring that property.

(4) This section shall not apply to any Section 24356.2 property purchased by any person described in Section 46(e)(3) of the Internal Revenue Code unless the credit under Section 38 of the Internal Revenue Code is allowable with respect to that person for that property (determined without regard to this section).

(5) For purposes of subdivision (b)—

(A) All component members of an affiliated group shall be treated as one taxpayer, and

(B) The taxpayer shall apportion the dollar limitation contained in subdivision (b) among the component members of the affiliated group in whatever manner the board shall by regulations prescribe.

(6) For purposes of paragraphs (2) and (5), "affiliated group" has the meaning assigned to it by Section 1504 of the Internal Revenue Code, except that, for these purposes, the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in Section 1504(a) of the Internal Revenue Code.

(d) For purposes of this section, "taxpayer" means a taxpayer who conducts a trade or business within an enterprise zone designated pursuant to Section 7073 of the Government Code.

(e) Any taxpayer who elects to be subject to this section shall not be entitled to claim additional depreciation pursuant to Section 24356 with respect to any property which constitutes Section 24356.2 property.

(f) The deduction allowable under subdivision (a) for any income year shall not exceed the following applicable amount for the income year of the designation of an enterprise zone and income years thereafter:

	The applicable amount is:
Income year of designation	$ 5,000
1st income year thereafter	5,000
2nd income year thereafter	7,500

3rd income year thereafter	7,500
Each income year thereafter	10,000

(g) This section shall apply only to property which is used exclusively in a trade or business conducted within an enterprise zone.

(h) Any amounts deducted under subdivision (a) with respect to property which ceases to be used in the trade or business within an enterprise zone at any time before the close of the second income year after the property is placed in service shall be included in income for that year.

SEC. 22. Section 24356.3 of the Revenue and Taxation Code is amended to read:

24356.3. (a) A taxpayer may elect to treat 40 percent of the cost of any Section 24356.3 property as an expense which is not chargeable to capital account. Any cost so treated shall be allowed as a deduction for the income year in which the Section 24356.3 property is placed in service.

(b) (1) An election under this section for any income year shall—

(A) Specify the items of Section 24356.3 property to which the election applies and the percentage of the cost of each of those items which is to be taken into account under subdivision (a).

(B) Be made on the taxpayer's return of the tax imposed by this part for the income year.

This election shall be made in the manner which the Franchise Tax Board may by regulations prescribe.

(2) Any election made under this section, and any specification contained in that election, may not be revoked except with the consent of the Franchise Tax Board.

(c) (1) For purposes of this section, "Section 24356.3 property" means property acquired by the taxpayer which is used exclusively in a program area (as defined in Section 7082 of the Government Code) and consists of machinery and machinery parts used for fabricating, processing, assembling, and manufacturing and machinery and machinery parts used for the production of renewable energy resources or air or water pollution control mechanisms.

"Section 24356.3 property" also means property used as an integral part of a qualified business within a program area (as defined in Section 7082 of the Government Code).

(2) For purposes of paragraph (1), "purchase" means any acquisition of property, but only if—

(A) The property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under Section 24427 through 24429 (but, in applying Sections 24428 and 24429 for purposes of this section, subdivision (d) of Section 24429 shall be treated as providing that the family of an individual shall include only his spouse, ancestors, and lineal descendants),

(B) The property is not acquired by one component member of an affiliated group from another component member of the same affiliated group, and

(C) The basis of the property in the hands of the person acquiring it is not determined in whole or in part by reference to the adjusted basis of that property in the hands of the person from whom it is acquired.

(3) For purposes of this section, the cost of property does not include so much of the basis of that property as is determined by reference to the basis of other property held at any time by the person acquiring that property.

(4) This section shall not apply to any Section 24356.3 property purchased by any person described in Section 46(e) (3) of the Internal Revenue Code unless the credit under Section 38 of the Internal Revenue Code is allowable with respect to that person for that property (determined without regard to this section).

(5) For purposes of subdivision (b) of this section—

(A) All component members of an affiliated group shall be treated as one taxpayer.

(B) The taxpayer shall apportion the dollar limitation contained in subdivision (f) among the component members of the affiliated group in whatever manner the board shall prescribe.

(6) For purposes of paragraphs (2) and (5), "affiliated group" has the meaning assigned to it by Section 1504 of the Internal Revenue Code, except that, for these purposes, the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in Section 1504(a) of the Internal Revenue Code.

(d) For purposes of this section, "taxpayer" means a taxpayer who conducts a qualified business within a program area (as defined in Section 7082 of the Government Code).

(e) Any taxpayer who elects to be subject to this section shall not be entitled to claim additional depreciation pursuant to Section 24356 with respect to any property which constitutes Section 24356.3 property; however, the taxpayer may claim depreciation by any method permitted by Section 24349 commencing with the income year following the income year in which Section 24356.3 property is placed in service.

(f) The aggregate cost which may be taken into account under subdivision (a) for any income year shall not exceed the following applicable amount for the income year of the designation of a program area and income years thereafter:

	The applicable amount is:
Income year of designation	$100,000
1st income year thereafter	100,000
2nd income year thereafter	75,000
3rd income year thereafter	75,000
Each income year thereafter	50,000

(g) Any amounts deducted under subdivision (a) with respect to property which ceases to be qualified property at any time before the

close of the second income year after the property is placed in service shall be included in income for that second year.

SEC. 23. Section 24384 is added to the Revenue and Taxation Code, to read:

24384. (a) There shall be allowed as a deduction the amount of net interest received by the taxpayer in payment of indebtedness of either of the following:

(1) A qualified business (as defined in Section 7082 of the Government Code).

(2) A bank or corporation located in an enterprise zone (as defined in Section 7073 of the Government Code).

(b) No deduction shall be allowed under subdivision (a) unless at the time the indebtedness is incurred each of the following requirements are met:

(A) The qualified business is located solely within a program area (as defined in Section 7082 of the Government Code), or the trade or business is located solely within an enterprise zone (as defined in Section 7073 of the Government Code).

(B) The indebtedness is incurred solely in connection with activity within the targeted economic development area, neighborhood economic development area or enterprise zone.

(C) The taxpayer has no equity or other ownership interest in the debtor.

SEC. 24. Section 24417 of the Revenue and Taxation Code is amended to read:

24417. The term "qualified taxpayer" as used in Section 24416 means any one of the following:

(a) A taxpayer engaged in a new small business.

(1) A net operating loss of a new small business shall not be a net operating loss carryback to any income year and shall be a net operating loss carryover to each of the 15 income years following the income year of the loss.

(A) A net operating loss may be carried over only by the corporation incurring the net operating loss.

(B) A net operating loss deduction by a taxpayer shall be allowed only for losses occurring within the first 24 months of active operation of the small business.

(C) The total amount of net operating loss a new small business may carry over pursuant to Section 24416 beginning on or after January 1, 1984, and thereafter, shall not exceed an aggregate of one hundred thousand dollars ($100,000) for all income years.

(2) For purposes of this subdivision, the definition of "small business" established by the Department of General Services shall apply, with the following modifications:

(A) A taxpayer shall qualify as a "small business" if the gross receipts for the initial year of operation do not exceed one-third of the maximum receipts specified in Sections 1896(a) and 1896(m) (1) (B) of subchapter 8 of Title 2 of the California Administrative Code for the applicable industry group. If the maximum receipts specified are

modified at any time during the income year, the amount stated at the end of the income year shall apply.

(B) Where the initial calendar year of operation is less than 12 months, gross receipts for that year shall be annualized for purposes of applying subparagraph (A).

(C) The taxpayer shall bear the burden of furnishing all information in support of a claim that it qualifies as a new "small business" as defined in this subdivision.

(3) The term "new small business" does not include any of the following:

(A) A corporation which, for tax purposes only, liquidates its assets in whole or in part, in anticipation of an operating loss and then subsequently reorganizes that portion of the corporation under a new name.

(B) A corporation which is part of a controlled group, as defined by Section 1563 of the Internal Revenue Code. However, for purposes of this subparagraph, where the term "80 percent" is used in Section 1563 of the Internal Revenue Code, the term "50 percent" shall be substituted in lieu of "80 percent."

(C) A corporation which is controlled by another corporation, and whose affiliation with the controlling corporation does not constitute a small business. For purposes of this subparagraph, "controlled" means the ownership of stock possessing more than 50 percent of the total combined voting power of all classes of stock entitled to vote.

(4) No net operating loss deduction shall be allowed for any loss which occurs prior to January 1, 1984, or for any loss which occurs in any income year beginning prior to January 1, 1984.

(5) For purposes of this subdivision, "net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 24416, attributable to a new small business.

(b) A taxpayer engaged in the conduct of a qualified business within a program area (as defined in Section 7082 of the Government Code).

(1) (A) A net operating loss shall not be a net operating loss carryback for any income year and, except as provided in subparagraph (B), a net operating loss for any income year beginning on or after the date that the taxpayer becomes a qualified business shall be a net operating loss carryover to each of the 15 income years following the income year of loss.

(B) In the case of a financial institution to which Section 585, 586, or 593 of the Internal Revenue Code applies, a net operating loss for any income year beginning on or after January 1, 1984, shall be a net operating loss carryover to each of the three income years following the income year of the loss. Subdivision (e) of Section 24416 and Section 172(b)(1)(F) and (G) of the Internal Revenue Code shall not apply.

(2) For purposes of this subdivision:

(A) "Net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 24416,

attributable to the business activities of the taxpayer within the program area (as defined in Section 7082 of the Government Code). That attributed loss shall be determined in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17.

(B) A net operating loss carryover shall be a deduction only with respect to income attributed to the business activities of the taxpayer within the program area (as defined in Section 7082 of the Government Code) determined in accord with the factor formula apportionment method provided in Article 2 (commencing with Section 25120) of Chapter 17.

(3) In determining the amount of the net operating loss deduction of any taxpayer under this subdivision, there shall be disregarded the net operating loss of that taxpayer for any income year for which the taxpayer is an electing small business corporation under Subchapter S of the Internal Revenue Code.

(4) No net operating loss deduction shall be allowed for any loss which occurs prior to January 1, 1984, or for any loss which occurs in any income year beginning prior to January 1, 1984.

(c) A taxpayer who is engaged in the conduct of a trade or business within an enterprise zone designated pursuant to Section 7073 of the Government Code on or after that designation.

(1) (A) A net operating loss shall not be a net operating loss carryback to any income year and, except as provided in subparagraph (B), a net operating loss for any income year beginning on or after the date that the area in which the taxpayer conducts a trade or business is designated an enterprise zone shall be a net operating loss carryover to each following income year that ends before the expiration or revocation of the designation of the enterprise zone under Section 7073 of the Government Code or to each of 15 income years following the income year of loss, if longer.

(B) In the case of a financial institution to which Section 585, 586, or 593 of the Internal Revenue Code applies, a net operating loss for any income year beginning on or after January 1, 1984, shall be a net operating loss carryover to each of the five income years following the income year of the loss. Subdivision (e) of Section 24416 and Section 172(B) (1) (F) and (G) of the Internal Revenue Code shall not apply.

(2) For purposes of this subdivision:

(A) "Net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 24416, attributable to the business activities of the taxpayer within the enterprize zone (as defined in Section 7073 of the Government Code). The attributed loss shall be determined in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17.

(B) A net operating loss carryover shall be a deduction only with respect to income attributed to the business activities of the taxpayer within the enterprise zone (as defined in Section 7073 of the Government Code) determined in accordance with the factor formula ap-

portionment method provided in Article 2 (commencing with Section 25120) of Chapter 17.

(3) In determining the amount of the net operating loss deduction of any taxpayer under this subdivision, there shall be disregarded the net operating loss of that taxpayer for any income year for which the taxpayer is an electing small business corporation under Subchapter S of the Internal Revenue Code.

(4) No net operating loss deduction shall be allowed for any loss which occurs prior to January 1, 1984, or for any loss which occurs in any income year beginning prior to January 1, 1984.

(d) A taxpayer who qualifies as a "qualified taxpayer" shall, for the income year of the net operating loss and any income year to which that net operating loss may be carried, designate on the return filed for each year the subdivision of this section which applies to that taxpayer with respect to that net operating loss. If the taxpayer is eligible to qualify under more than one subdivision of this section, the designation is to be made after taking into account the election required by subdivision (e) and shall be consistent with that election.

(e) If a taxpayer is eligible to qualify under more than one subdivision of this section as a "qualified taxpayer," with respect to a net operating loss in an income year, the taxpayer shall elect which subdivision of this section is to apply to the taxpayer. The election is to be made in a statement attached to the original return, timely filed, for the year the net operating loss is incurred and shall be irrevocable.

SEC. 25. Section 24916 of the Revenue and Taxation Code is amended to read:

24916. Proper adjustment in respect of the property shall in all cases be made—

(a) For expenditures, receipts, losses, or other items properly chargeable to capital account, but no such adjustment shall be made for taxes or other carrying charges or for expenditures described in Section 24364 and Section 24369 for which deductions have been taken by a bank or corporation in determining net income for the income year or prior income years;

(b) For exhaustion, wear and tear, obsolescence, amortization, and depletion:

(1) In the case of banks or corporations subject to the tax imposed by Chapter 2, to the extent sustained prior to January 1, 1928, and to the extent allowed (but not less than the amount allowable) under this part, except that no deduction shall be made for amounts in excess of the amount which would have been allowable had depreciation not been computed on the basis of January 1, 1928, value and amounts in excess of the adjustments required by Section 113(b)(1)(B) of the Federal Revenue Act of 1938 for depletion prior to January 1, 1932.

(2) In the case of a taxpayer subject to the tax imposed by Chapter 3, to the extent sustained prior to January 1, 1937, and for periods thereafter to the extent allowed (but not less than the amount allow-

able) under the provisions of this part.

(3) If a taxpayer has not claimed an amortization deduction for an emergency facility, the adjustment under paragraph (1) shall be made only to the extent ordinarily provided under Sections 24349, and 24372.

(c) In the case of stock (to the extent not provided for in the foregoing subsections) for the amount of distributions previously made which, under the law applicable to the year in which the distribution was made, either were tax free or were applicable in reduction of basis (not including distributions made by a corporation, which was classified as a personal service corporation under the provisions of the Federal Revenue Act of 1918 or 1921, out of its earnings or profits which were taxable in accordance with the provisions of Section 218 of the Federal Revenue Act of 1918 or 1921).

(d) (1) In the case of banks or corporations subject to the tax imposed by Chapter 2, in the case any bond (as defined in Section 24363) to the extent of the deductions allowable pursuant to Section 24360 with respect thereto.

(2) In the case of taxpayers subject to the tax imposed by Chapter 3, in the case of any bond (as defined in Section 24363) the interest on which is wholly exempt from the tax imposed by this part, to the extent of the amortizable bond premium disallowable as a deduction pursuant to Section 24361, and in the case of any other bond (as defined in Section 24363) to the extent of the deductions allowable pursuant to Section 24361 with respect thereto.

(3) In the case of property pledged to the Commodity Credit Corporation, to the extent of the amount received as a loan from the Commodity Credit Corporation and treated by the taxpayer as income for the year in which received pursuant to Section 24273, and to the extent of any deficiency on such loan with respect to which the taxpayer has been relieved from liability.

(e) For amounts allowed as deductions as deferred expenses under subdivision (b) of Section 24836 (relating to certain expenditures in the development of mines) and resulting in a reduction of the taxpayer's tax, but not less than the amounts allowable under such section for the income year and prior years.

(f) For amounts allowable as deductions as deferred expenses under subdivision (b) of Section 24837 (relating to certain exploration expenditures) and resulting in a reduction of the taxpayer's tax, but not less than the amounts allowable under such section for the income year and prior years.

(g) For amounts allowed as deductions as deferred expenses under Section 24366(a) (relating to research and experimental expenditures) and resulting in a reduction of the bank or corporations' taxes under this part, but not less than the amounts allowable under such section for the income year and prior years.

(h) For amounts allowed as deductions for expenditures treated as deferred expenses under Section 24368.1 (relating to trademark and trade name expenditures) and resulting in a reduction of the

taxpayer's taxes under this part, but not less than the amounts allowable under such section for the income year and prior years.

(i) For amounts allowed as deductions for payments made on account of transfers of franchises, trademarks, or trade names under Section 24378.

(j) For amounts allowed as deductions under Sections 24356.2 and 24356.3.

SEC. 26. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 1463

An act to amend Sections 711, 712, and 7149 of, and to amend and repeal Sections 331, 332, 396, 713, 1002, 1053, 2540, 3031, 3055, 3081, 3203, 3242, 3280, 3300, 3510, 3806, 4006, 4031, 4033, 4751, and 5653 of, the Fish and Game Code, relating to fish and game, and making an appropriation therefor.

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

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

SECTION 1. Section 331 of the Fish and Game Code is amended to read:

331. The commission may determine and fix the area or areas, the seasons and hours, the bag and possession limit, and the sex and total number of antelope (Antilocapra americana) that may be taken under regulations which the commission may prescribe from time to time. Only a resident of the State of California possessing a valid hunting license and over the age of 16 years, who has not taken an antelope under these provisions during the 10 years immediately preceding, may obtain a license for the taking of antelope. Only one license may be issued to any one individual in any 10-year period.

A license may be issued upon payment of a fee of fifty-five dollars ($55). The fee shall be deposited in the Fish and Game Preservation Fund and shall be expended, in addition to money budgeted for salaries of persons in the department, for the expense of enforcing this section and the processing of applications.

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.

If that date upon which this section becomes inoperative is not deleted or extended, then, on and after July 1, 1987, pursuant to Section 9611 of the Government Code, Section 331 of the Fish and Game Code, as amended by Section 1 of Chapter 353 of the Statutes of 1977, shall have the same force and effect as if this temporary

provision had not been enacted.

SEC. 2. Section 332 of the Fish and Game Code is amended to read:

332. The commission may determine and fix the area or areas, the seasons and hours, the bag and possession limit, and the number of elk that may be taken under rules and regulations which the commission may prescribe from time to time. The commission may not authorize the taking of tule elk until the total statewide population of those mammals exceeds 2,000, or it is determined by the Legislature, pursuant to the reports required by Section 3951, that suitable areas cannot be found in California to accommodate such a population in a healthy condition. Only a resident of the State of California over the age of 16 years and possessing a valid hunting license may obtain a license for the taking of elk.

A license may be issued upon payment of a fee of one hundred sixty-five dollars ($165). The fees shall be deposited in the Fish and Game Preservation Fund and shall be expended in addition to money budgeted for salaries of the department, for the expense of enforcing the provisions of this section and the processing of the applications.

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.

If that date upon which this section becomes inoperative is not deleted or extended, then, on and after July 1, 1987, pursuant to Section 9611 of the Government Code, Section 332 of the Fish and Game Code, as amended by Section 2 of Chapter 353 of the Statutes of 1977, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 3. Section 396 of the Fish and Game Code is amended to read:

396. The fee for a falconry license is forty dollars ($40) per fiscal year beginning July 1, or any part thereof, except that upon the filing of an affidavit showing the loss or destruction of an unexpired falconry license and the payment of a fee of eight dollars ($8), a duplicate license may be issued for the remainder of the license period.

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.

If that date upon which this section becomes inoperative is not deleted or extended, then, on and after July 1, 1987, pursuant to Section 9611 of the Government Code, Section 396 of the Fish and Game Code, as amended by Section 2 of Chapter 409 of the Statutes of 1977, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 4. Section 711 of the Fish and Game Code is amended to

read:

711. It is the intent of the Legislature to ensure adequate funding from appropriate sources for the department. To this end, the Legislature finds and declares that:

(a) The costs of special repairs and capital outlay, nongame fish and wildlife programs, and free hunting and fishing license programs shall be provided annually in the Budget Act by appropriating money from the General Fund and sources other than the Fish and Game Preservation Fund to the department for these purposes.

(b) The costs of commercial fishing programs shall be provided solely out of revenues from commercial fishing taxes, license fees, and other revenues, and from reimbursements and federal funds received for commercial fishing programs.

(c) The costs of hunting and sport fishing programs shall be provided solely out of hunting and sport fishing revenues and reimbursements and federal funds received for hunting and sport fishing programs. These revenues shall not be used to support commercial fishing programs, free hunting and fishing license programs, or nongame fish and wildlife programs.

(d) Hunting, sportfishing, and sport ocean fishing license fees shall be adjusted annually to an amount equal to that computed pursuant to Section 713. However, a substantial increase in the aggregate of hunting and sportfishing programs shall be reflected by appropriate amendments to the sections of this code that establish the base sport license fee levels. The inflationary index provided in Section 713 may not be used to accommodate a substantial increase in the aggregate of hunting and sportfishing programs.

For purposes of this article, "substantial increase" means an increase in excess of 5 percent of the Fish and Game Preservation Fund portion of the department's current year support budget, excluding cost-of-living increases provided for salaries, staff benefits, and operating expenses.

SEC. 5. Section 712 of the Fish and Game Code is amended to read:

712. The Department of Finance shall include in the Governor's Budget sufficient moneys from the General Fund and sources other than the Fish and Game Preservation Fund to pay the costs of the department's nongame programs, including those necessary for the protection and enhancement of California's nongame fish and wildlife and their habitat, the free hunting and fishing license programs, and special repairs and capital outlay.

The Department of Finance shall not include in the Governor's Budget any appropriation from the Fish and Game Preservation Fund for any program or project which is not expressly found to be an activity relating to the protection or propagation of fish and game, except to the extent that moneys have been deposited in that fund from collections under a law which is not related to the protection or propagation of fish and game.

Any study relating to funding of programs administered or

conducted by the department shall include express findings of whether the program is related to the protection or propagation of fish and game and shall describe the relationship.

SEC. 6. Section 713 of the Fish and Game Code is amended to read:

713. (a) Not later than August 1 of each year, the Department of Finance shall submit to the department a factor which reflects changes in an inflationary index developed by the Department of Finance, calculated by comparing the department's cost of salaries, staff benefits, operating expenses, special repairs, capital outlay, and other nonsubstantial costs paid from the Fish and Game Preservation Fund in the fiscal year ending on June 30 of that same year with those costs in the 1984–85 fiscal year.

(b) The factor shall be multiplied by the individual base fee for each license, stamp, permit, or tag. The product shall be rounded to the nearest twenty-five cents ($0.25), and the resulting amount shall be the fee for any license year beginning on or after January 1 of the next succeeding calendar year for any license, stamp, permit, or tag which is adjusted under this section pursuant to other provisions of this code.

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 713 of the Fish and Game Code, as amended by Section 1 of Chapter 1411 of the Statutes of 1984, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 7. Section 1002 of the Fish and Game Code is amended to read:

1002. The department may issue permits, subject to restrictions and regulations which the commission deems desirable, to take or possess, in any part of the state, for scientific, educational, or propagation purposes, mammals, birds and the nests and eggs thereof, fish, amphibia, reptiles, or any other form of plant or animal life.

The fee for the permits is fifteen dollars ($15) per year, except that a permit without fee may be issued for either of the following:

(a) Authorizing only the banding of birds and the exhibition of live or dead wildlife specimens by public zoological gardens, scientific or educational institutions.

(b) To students regularly enrolled in commercial fishing classes in a school operating under the jurisdiction of the State Board of Education or in commercial fishing classes in a community college and to faculty members of those schools or a community college when conducting regularly enrolled classes in commercial fishing. Any permit issued under this subdivision shall apply only when the students are under the direct supervision of the instructor approved by the school or community college to teach the class. All fish taken

shall be taken in accordance with state law except that Sections 7850 and 7880 to 7890, inclusive, shall not apply to persons or equipment operating under this subdivision. All fish taken under authority of a permit issued under this subdivision may be sold only to a person licensed pursuant to Section 8040 or donated to a charitable institution. All funds received from the sale of the fish shall be used solely for the support of the commercial fishing classes.

A special student permit may be issued pursuant to this section, on the payment of a fee of eight dollars ($8) to any student in a school of collegiate level who is required by an instructor in wildlife research in the school to collect specimens used in laboratory work in the school under supervision and in connection with a course in wildlife research or in the conduct of wildlife investigations and studies on behalf of the public.

The license year for permits issued pursuant to this section is the calendar year or any part thereof. It is not necessary for the possessor of the permit to have a sport fishing or hunting license to pursue the scientific collecting of any fish, reptile, aquatic animal or plant, bird, or mammal in this state.

Nothing in this section authorizes any act which violates Section 597 of the Penal Code.

A permit under this section does not authorize the taking of fish or mammals from the ocean waters of this state which are within the boundaries of any city if the city has filed with the department an objection to the taking.

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 1002 of the Fish and Game Code, as amended by Section 3 of Chapter 353 of the Statutes of 1977, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 8. Section 1053 of the Fish and Game Code is amended to read:

1053. Not more than one license or not more than the number of license tags authorized by statute or regulation of the same class shall be issued to or purchased by a person for the same license year, except upon:

(a) The expiration of the license.

(b) The filing of an affidavit showing the loss or destruction of an unexpired license or license tag previously issued and payment of the full fee.

(c) The filing of an affidavit showing the loss or destruction of an unexpired commercial fishing license or packing and processing license and payment of a fee of eight dollars ($8).

(d) The filing of an affidavit showing the loss or destruction of an unexpired sport fishing or hunting license, and payment of a fee of three dollars ($3). Duplicate sportfishing or hunting licenses issued

pursuant to this subdivision shall be issued only by the department.

Any person authorized by the department to issue licenses may administer the oath for purposes of the affidavit without any fee. Each of the affidavits provided for under subdivisions (b), (c), and (d) shall be filed with the department at the times and in the manner prescribed by the department.

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.

If that date upon which this section becomes inoperative is not deleted or extended, then, on and after July 1, 1987, pursuant to Section 9611 of the Government Code, Section 1053 of the Fish and Game Code, as amended by Section 2 of Chapter 1117 of the Statutes of 1983, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 9. Section 2540 of the Fish and Game Code is amended to read:

2540. The fee for a revocable guide license issued to a resident of this state is forty-five dollars ($45), and the fee for a license issued to a nonresident is one hundred twenty-five dollars ($125). A guide license shall be valid for the fiscal year in which issued or, if issued after the beginning of a fiscal year, for the remainder of that fiscal year.

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.

If that date upon which this section becomes inoperative is not deleted or extended, then, on and after July 1, 1987, pursuant to Section 9611 of the Government Code, Section 2540 of the Fish and Game Code, as amended by Section 5 of Chapter 538 of the Statutes of 1974, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 10. Section 3031 of the Fish and Game Code is amended to read:

3031. A hunting license, granting the privilege to take birds and mammals, shall be issued:

(a) To any resident of this state, over the age of 16 years, upon the payment of a fee of eighteen dollars ($18).

(b) To any resident of this state, under the age of 16 years, upon the payment of a fee of four dollars ($4).

(c) To any person not a resident of this state, upon the payment of a fee of fifty-nine dollars ($59).

(d) To any person not a resident of this state, valid for one day and only for the taking of domesticated game birds and pheasants while on the premises of a licensed pheasant club, or for the taking of domesticated migratory game birds on areas licensed for shooting those birds, upon the payment of a fee of eight dollars ($8).

(e) To any person not a resident of this state, valid only at an organizational field trial under Section 3510, upon the payment of a fee of fifteen dollars ($15).

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.

If that date upon which this section becomes inoperative is not deleted or extended, then, on and after July 1, 1987, pursuant to Section 9611 of the Government Code, Section 3031 of the Fish and Game Code, as amended by Section 4 of Chapter 1117 of the Statutes of 1983, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 11. Section 3055 of the Fish and Game Code is amended to read:

3055. Persons who apply for a resident hunting license and qualify for the license through the issuance of a certificate of competence in hunter safety, principles of conservation, and sportsmanship as provided by this article, shall obtain a hunter safety instruction validation stamp. The hunter safety instruction validation stamp shall be issued by license agents for a fee of two dollars ($2) in the same manner as resident hunting licenses. However, the compensation provided in Section 1055 shall not be paid to the license agent for the sale of the stamp. The validation stamp shall be affixed to the certificate of competence.

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.

If that date upon which this section becomes inoperative is not deleted or extended, then, on and after July 1, 1987, pursuant to Section 9611 of the Government Code, Section 3055 of the Fish and Game Code, as added by Section 5 of Chapter 1539 of the Statutes of 1970, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 12. Section 3081 of the Fish and Game Code is amended to read:

3081. It is unlawful to possess deer, elk, bear, or antelope meat except as follows:

(a) During the open season where taken and for 15 days following the last day when those mammals may be legally taken in the area where taken.

(b) At any time if marked pursuant to regulations established by the commission. The commission shall make the regulations, and may fix a fee for marking the meat.

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.

If that date upon which this section becomes inoperative is not deleted or extended, then, on and after July 1, 1987, pursuant to Section 9611 of the Government Code, Section 3081 of the Fish and Game Code, as amended by Section 1 of Chapter 251 of the Statutes of 1959, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 13. Section 3203 of the Fish and Game Code is amended to read:

3203. The department shall issue a class 1 domesticated game breeder's license upon the payment of a fee of eight dollars ($8), a class 2 domesticated game breeder's license upon the payment of a fee of forty dollars ($40), and a class 3 domesticated game breeder's license upon the payment of a fee set by the commission to help cover the costs of administration.

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 3203 of the Fish and Game Code, as amended by Section 7 of Chapter 1153 of the Statutes of 1978, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 14. Section 3242 of the Fish and Game Code is amended to read:

3242. A commercial hunting club license shall be issued to any person upon the payment of a fee of one hundred sixty-five dollars ($165).

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.

If that date upon which this section becomes inoperative is not deleted or extended, then, on and after July 1, 1987, pursuant to Section 9611 of the Government Code, Section 3242 of the Fish and Game Code, as amended by Section 5 of Chapter 353 of the Statutes of 1977, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 15. Section 3280 of the Fish and Game Code is amended to read:

3280. The commission may prescribe regulations authorizing the department to issue a licensed pheasant club license, to include an investigation to the satisfaction of the department that a tract is suitable for the purposes of a licensed pheasant club and that the establishment of the club will not conflict with the public interest.

The license fees shall be two hundred dollars ($200) for a pheasant club of over 500 acres and one hundred fifty dollars ($150) for a pheasant club of 500 acres or less.

The license shall be issued for a term of one year from June 1, or if issued after the beginning of that period, for the remainder of the

period.

The commission may transfer a license without any additional fee to land owned or controlled by the licensee, other than that land specified in the original application, but which is located in the same county as the original land, if it is satisfied, after investigation, that the new land is suitable for the purposes of the license and the transfer is not in conflict with the public interest.

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.

If that date upon which this section becomes inoperative is not deleted or extended, then, on and after July 1, 1987, pursuant to Section 9611 of the Government Code, Section 3280 of the Fish and Game Code, as amended by Section 1 of Chapter 840 of the Statutes of 1967, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 16. Section 3300 of the Fish and Game Code is amended to read:

3300. It is unlawful for any person to engage in the raising and releasing, or the releasing, of domesticated migratory game birds for shooting by persons who pay for that privilege, unless the person has a revocable nontransferable license issued by the department. The licenses may be issued annually by the department and shall be valid from July 1 through the following June 30, upon payment of a fee of eighty dollars ($80).

Any bird of a species included in the definition of migratory game birds, as defined in Section 3500, which has been held live in captivity is a "domesticated migratory game bird" for purposes of this section, except such a bird that has been released from captivity and any control before attaining six weeks of age.

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.

If that date upon which this section becomes inoperative is not deleted or extended, then, on and after July 1, 1987, pursuant to Section 9611 of the Government Code, Section 3300 of the Fish and Game Code, as amended by Section 6 of Chapter 353 of the Statutes of 1977, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 17. Section 3510 of the Fish and Game Code is amended to read:

3510. Legally acquired domestically reared game birds, coturnix quail, and bobwhite quail may be used for, and taken during, the training of hunting dogs and field trials if the person taking the birds has a valid hunting license and a dog training or organizational field trial permit issued by the department pursuant to regulations of the commission.

Whenever those birds are used for field trials held by organizations operating under the auspices of the American Kennel Club, the American Field Dog Stud Book, or other organization which, in the opinion of the commission, is a bona fide hunting dog organization, the birds may be taken if the organization conducting the field trial has a permit for the taking issued by the department and if each individual that shoots the birds has a valid hunting license.

The fee for dog training permits is two dollars ($2) per year for each individual permit and ten dollars ($10) per year for each organizational permit. Applications for the permits shall be made to the department. The organizational permit shall allow each member of the organization, or the persons designated by the organization to do the shooting at a field trial, to take birds under this section.

Persons conducting dog training individually at places and times other than official club functions shall have an individual permit.

The department may require that any birds so used be marked to distinguish them from other game birds and the carcass of pheasant or chukar taken shall be tagged with a seal as provided for in Sections 3206 and 3207.

The department may designate in the permit, the time, place, and dates where the training of dogs or field trials may be held.

The release and taking of exotic nonresident game birds subject to Sections 3515 and 3516 may be pursuant to this section if authorized by the commission. Dog training and organizational field trial permits shall be issued on a calendar year basis.

Permits issued under this section shall be restricted to dog clubs, trainers, and dog owners. The commission may revoke permits upon determination of any violation of this code.

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 3510 of the Fish and Game Code, as amended by Section 3 of Chapter 968 of the Statutes of 1972, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 18. Section 3806 of the Fish and Game Code is amended to read:

3806. In order to aid in relieving widespread waterfowl depredation of agricultural crops, the department may issue licenses under regulations which the commission may prescribe to permit the feeding of migratory game birds. The commission may prescribe an annual fee for the license.

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.

If that date upon which this section becomes inoperative is not deleted or extended, then, on and after July 1, 1987, pursuant to

Section 9611 of the Government Code, Section 3806 of the Fish and Game Code, as added by Section 2 Chapter 456 of the Statutes of 1957, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 19. Section 4006 of the Fish and Game Code is amended to read:

4006. A trapping license shall be issued as follows:

(a) To any resident of this state over the age of 16 years upon payment of a fee of forty-five dollars ($45).

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

(c) To any person not a resident of this state upon payment of a fee of two hundred twenty-five dollars ($225).

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

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, 1987, deletes or extends the dates on which it becomes inoperative and is repealed.

If that date upon which this section becomes inoperative is not deleted or extended, then, on and after July 1, 1987, pursuant to Section 9611 of the Government Code, Section 4006 of the Fish and Game Code, as amended by Section 3 of Chapter 1534 of the Statutes of 1982, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 20. Section 4031 of the Fish and Game Code is amended to read:

4031. A revocable fur dealer license shall be issued to any person upon payment of a fee of seventy dollars ($70).

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.

If that date upon which this section becomes inoperative is not deleted or extended, then, on and after July 1, 1987, pursuant to Section 9611 of the Government Code, Section 4031 of the Fish and Game Code, as added by Section 4 of Chapter 701 of the Statutes of 1979, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 21. Section 4033 of the Fish and Game Code is amended to read:

4033. A revocable fur agent license shall be issued to any person who is employed by a licensed fur dealer upon payment of a fee of thirty-five dollars ($35).

(c) 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.

If that date upon which this section becomes inoperative is not deleted or extended, then, on and after July 1, 1987, pursuant to Section 9611 of the Government Code, Section 4033 of the Fish and Game Code, as added by Section 4 of Chapter 701 of the Statutes of 1979, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 22. Section 4751 of the Fish and Game Code is amended to read:

4751. (a) Any resident of this state, 12 years of age or over, who possesses a valid hunting license, may procure the number of bear tags corresponding to the number of bear that may legally be taken by one person during the current license year, upon payment of a fee of fifteen dollars ($15), for each bear tag.

(b) Any nonresident of this state, 12 years of age or over, who possesses a valid California hunting license, may procure the number of bear license tags corresponding to the number of bear that may be legally taken by one person during the current license year upon payment of the fee of one hundred five dollars ($105) for each bear tag.

(c) 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.

If that date upon which this section becomes inoperative is not deleted or extended, then, on and after July 1, 1987, pursuant to Section 9611 of the Government Code, Section 4751 of the Fish and Game Code, as amended by Section 7 of Chapter 1117 of the Statutes of 1983, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 23. Section 5653 of the Fish and Game Code is amended to read:

5653. Before any person uses any vacuum or suction dredge equipment in any river, stream or lake of this state, the person shall submit an application for a permit for the dredge to the department specifying the type and size of equipment to be used and any other information the department may require.

The department may designate waters or areas in which vacuum or suction dredges may be used pursuant to a permit, waters or areas closed to those dredges, the maximum size of those dredges which may be used, and the time of year when the dredges may be used. If the department determines that the operation will not be deleterious to fish it shall issue a permit to the applicant. If any person operates any equipment other than that authorized by the permit or conducts the operation in any waters or area, or at any time which is not authorized by the permit, or if any person conducts the operation without securing a permit, the person shall be guilty of a misdemeanor.

The department shall issue a permit upon payment of a fee of ten dollars ($10) when an onsite investigation of the project size is not

deemed necessary by the department, and one hundred thirty dollars ($130) when the department deems an onsite investigation is necessary.

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 5653 of the Fish and Game Code, as amended by Section 1 of Chapter 785 of the Statutes of 1975, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 23.5. Section 5653 of the Fish and Game Code is amended to read:

5653. (a) Before any person uses any vacuum or suction dredge equipment in any river, stream or lake of this state, the person shall submit an application for a permit for the dredge to the department specifying the type and size of equipment to be used and other information as the department may require.

(b) The department may designate waters or areas wherein vacuum or suction dredges may be used pursuant to a permit, waters or areas closed to those dredges, the maximum size of those dredges which may be used, and the time of year when the dredges may be used. If the department determines that the operation will not be deleterious to fish it shall issue a permit to the applicant. If any person operates any equipment other than that authorized by the permit or conducts the operation in any waters or area, or at any time which is not authorized by the permit, or if any person conducts the operation without securing the permit, the person is guilty of a misdemeanor.

(c) The department shall issue a permit upon payment of a fee of ten dollars ($10), when an onsite investigation of the project size is not deemed necessary by the department, and one hundred thirty dollars ($130), when the department deems an onsite investigation is necessary.

(d) It is unlawful to possess a vacuum or suction dredge in areas, or in or within 100 yards of waters, which are closed to the use of vacuum or suction dredges.

(e) 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. 23.6. Section 5653 of the Fish and Game Code is amended to read:

5653. (a) Before any person uses any vacuum or suction dredge equipment in any river, stream or lake of this state, person shall submit an application for a permit for a dredge to the department specifying the type and size of equipment to be used and other information as the department may require.

(b) The department may designate waters or areas wherein vacuum or suction dredges may be used pursuant to a permit, waters

or areas closed to those dredges, the maximum size of those dredges which may be used, and the time of year when those dredges may be used. If the department determines that the operation will not be deleterious to fish it shall issue a permit to the applicant. If any person operates any equipment other than that authorized by the permit or conducts the operation in any waters or area, or at any time which is not authorized by the permit, or if any person conducts the operation without securing the permit, the person is guilty of a misdemeanor.

(c) The department shall require as a fee for the permits, five dollars ($5) when an onsite investigation of the project size is not deemed necessary by the department, and seventy-five dollars ($75) when the department deems an onsite investigation is necessary.

(d) It is unlawful to possess a vacuum or suction dredge in areas, or in or within 100 yards of waters, which are closed to the use of vacuum or suction dredges.

(e) This section shall become operative January 1, 1987.

SEC. 24. Section 7149 of the Fish and Game Code is amended to read:

7149. (a) A sportfishing license granting the privilege to take any fish, reptile, or amphibia anywhere in this state for purposes other than profit shall be issued to any of the following:

(1) A resident of this state, over the age of 16 years, upon payment during the 1986 calendar year of a fee of eighteen dollars ($18) or upon payment during a calendar year beginning on or after January 1, 1987, of a base fee of thirteen dollars ($13) as adjusted under Section 713.

(2) A nonresident, over the age of 16 years, upon payment during the 1986 calendar year of a fee of forty-five dollars ($45) or upon payment during a calendar year beginning on or after January 1, 1987, of a base fee of thirty-five dollars ($35) as adjusted under Section 713.

(3) A nonresident, over the age of 16 years, for a period of 10 consecutive days beginning on the date of purchase, upon payment during the 1986 calendar year of a fee of nineteen dollars ($19) or upon payment during a calendar year beginning on or after January 1, 1987, of a base fee of thirteen dollars ($13) as adjusted under Section 713.

(b) A sport ocean fishing license granting the licensee to take any fish from ocean waters of this state for purposes other than profit shall be issued to any of the following:

(1) A resident of this state, over the age of 16 years, upon payment during the 1986 calendar year of a fee of ten dollars ($10) or upon payment during a calendar year beginning on or after January 1, 1987, of a base fee of seven dollars and fifty cents ($7.50) as adjusted under Section 713.

(2) A nonresident, over the age of 16 years, for a period of five consecutive days beginning on the date of purchase, upon payment during the 1986 calendar year of a fee of ten dollars ($10) or upon

payment during a calendar year beginning on or after January 1, 1987, of a base fee of seven dollars and fifty cents ($7.50) as adjusted under Section 713.

(c) A sport ocean fin fishing license granting the privilege to take only fin fish from the ocean waters of this state for purposes other than profit shall be issued to a person over the age of 16 years for one designated day, upon the payment for a designated day in the calendar year beginning on January 1, 1986, of a fee of three dollars and fifty cents ($3.50) or upon payment for a designated day in the calendar year beginning on or after January 1, 1987, of a base fee of three dollars ($3) as adjusted under Section 713.

(d) For the purposes of this section, the license fees paid under this section for licenses issued in the calendar year beginning January 1, 1986, shall be the fees specified in this section, and the adjustment under Section 713 shall be calculated and added to the base fees to establish the fees paid for licenses issued in a calendar year beginning on and after January 1, 1987, in accordance with Section 713.

(e) California sportfishing license stamps shall be sold by license agents in the same manner as sportfishing licenses, and no compensation shall be paid to the license agent for sale of the stamps except as provided in Section 1055.

SEC. 25. It is the intent of the Legislature that fees for commercial fishing licenses, permits, and stamps and commercial fishing taxes, be increased to take into account inflation since the previous increases and that those fees and taxes be indexed to take into account fluctuations in inflation in the future. The Department of Fish and Game shall consult with the Department of Finance and the commercial fishing industry to determine appropriate increases and indexing measures needed to accommodate future fluctuations in inflation and shall report its findings to the Legislature by July 1, 1986.

SEC. 26. The fee for any license or permit which is established in a fixed amount by this act for the 1986 calendar year or the 1986–87 fiscal year shall thereafter be adjusted pursuant to Section 713 of the Fish and Game Code for the 1987 calendar year or the 1987–88 fiscal year, as the case may be, on the basis of an inflationary index that is calculated on the basis of the costs of the Department of Fish and Game, as specified in Section 713, for both the 1984–85 and 1985–86 fiscal years.

SEC. 27. Section 396 of the Fish and Game Code, as proposed to be amended by Section 3 of this act, shall not become operative if any act is enacted during the 1985 calendar year which takes effect on or before January 1, 1986, and which amends or repeals and adds Section 396 of the Fish and Game Code, whether that act is enacted prior to or subsequent to this act.

SEC. 28. Section 23.5 of this bill incorporates amendments to Section 5653 of the Fish and Game Code proposed by both this bill and AB 1527. Sections 23.5 and 23.6 shall only become operative if (1) both bills are enacted and become effective on January 1, 1987, (2)

each bill amends Section 5653 of the Fish and Game Code, and (3) this bill is enacted after AB 1527, in which case Section 23 of this bill shall not become operative.

SEC. 29. Sections 1 to 28, inclusive, of this act shall become operative only if Assembly Bill 2436 of the 1985–86 Regular Session of the Legislature is enacted. This section shall become operative only if both this bill and Assembly Bill 2436 are passed by the Legislature on or before September 13, 1985.

SEC. 30. It is the intent of the Legislature that the Department of Fish and Game be adequately funded. To that end there is hereby appropriated from the General Fund the amount of one million one hundred fifty-two thousand dollars ($1,152,000) to the Fish and Game Preservation Fund as an augmentation to the hunting and fishing license revenues.

CHAPTER 1464

An act to add Section 6.1 to Chapter 138 of the Statutes of 1964 (First Extraordinary Session), relating to tidelands and submerged lands granted by the state to the City of Long Beach, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature. Filed with Secretary of State October 2, 1985.]

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

SECTION 1. Section 6.1 is added to Chapter 138 of the Statutes of 1964 (First Extraordinary Session), to read:

SEC. 6.1. Upon any revision of tract assignments under the Long Beach unit agreement where an increased allocation of hydrocarbon substances is assigned to Tract 1 or Tract 2 of the Long Beach unit, the State Lands Commission, in its discretion, may accept, to the extent permitted by law and the unit agreement and for so long as deemed appropriate, retroactive adjustments from not less than 10 percent of the hydrocarbon substances allocated to any overage tract from which retroactive adjustments are required to be made. No reduction in the rate of retroactive adjustments shall be accepted by the State Lands Commission unless it finds that the reduction will be implemented so that the rate will be reduced only for the royalty interest owners and working interest owners, other than producing oil companies.

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 for the more effective administration of the extraction, sale, and disposition of oil, gas, and other hydrocarbons

from the Long Beach tidelands in accordance with this act at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1465

An act relating to transportation.

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

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

SECTION 1. (a) The Department of Transportation shall compile all existing studies regarding the transportation by highway or by rail of hazardous materials, as defined by Section 353 of the Vehicle Code. The Department of the California Highway Patrol and the Public Utilities Commission shall provide the Department of Transportation with all applicable materials compiled by them concerning hazardous materials transportation, including, but not limited to, accident statistics, frequency of travel, quantities of hazardous materials shipped, enforcement actions, safety problems, and any recommended solutions to those problems.

(b) The Department of Transportation shall report to the Legislature, including the respective budget and transportation committees, with its findings on or before September 1, 1986. These findings shall include a summary of safety issues identified, and recommended solutions to ensure the safe transportation of hazardous materials.

CHAPTER 1466

An act to amend Sections 17791, 17792, 17793, and 39015 of, and to add Section 17742.5 to, the Education Code, relating to school facilities.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 17742.5 is added to the Education Code. to read:

17742.5. For purposes of determining the area of adequate school construction existing in an applicant school district pursuant to Section 17742, all portable classrooms, whether owned or leased, shall be included, except as otherwise provided in subdivisions (a), (b),

(c), and (d).

(a) Leased portable classrooms acquired by a school district shall not be included in the area of existing adequate school construction until January 1, 1991.

(b) Portable classrooms leased pursuant to Chapter 25 (commencing with Section 17785) shall be excluded from the area of adequate school construction.

(c) The total area of portable classrooms that is in excess of 10 percent of the district's total area and that have been leased or owned by the district for 20 years shall be excluded from the area of adequate school construction.

(d) Leased portable classrooms shall not be included from the area of adequate school construction for a period of five years from the date first leased by the district, or until continued use for classroom purposes is no longer justified by additional growth in average daily attendance pursuant to the standards established by this part.

SEC. 2. Section 17791 of the Education Code is amended to read:

17791. (a) The board shall have authority to adopt rules establishing priorities for the acquisition and leasing of classrooms to those school districts and county superintendents of schools whose pupils will benefit most. The board may make exceptions from the established priorities if it determines that the pupils affected will benefit.

(b) If at any time the number of portable classrooms available exceeds the number of those required by applicant districts, as determined by basic loading standards and eligibility requirements, the board may authorize additional portable classrooms to be placed in any school district that agrees to hire an additional teacher for each additional portable classroom placed in the district pursuant to this subdivision.

SEC. 3. Section 17792 of the Education Code is amended to read:

17792. (a) No portable classrooms shall be made available to any school district unless the district furnishes evidence, satisfactory to the board, that the district has no available bond proceeds that could be used for the purchase of classroom facilities.

(b) Notwithstanding any other provision of law, a school district or county superintendent of schools that has received approval for a project that includes a justified number of new teaching stations pursuant to Chapter 22 (commencing with Section 17700) shall be eligible for at least the same number of emergency portable classrooms as approved new teaching stations.

SEC. 4. Section 17793 of the Education Code is amended to read:

17793. The board shall have prepared for its use, performance specifications for portable classrooms complying with Sections 39140 to 39156, inclusive, which are capable of being economically moved, and bids for the construction of which can be solicited from more than one responsible bidder. The board may from time to time solicit bids from, and award to, the lowest responsible competitive bidder,

contracts for the construction or purchase of the number of portable classrooms it deems will be required by eligible school districts and county superintendents of schools during the next 12 months.

SEC. 5. Section 39015 of the Education Code is amended to read:

39015. Whenever a school district acquires or has acquired a site for school purposes, as determined by the State Allocation Board, and does not use the site within (1) five years of the date of acquisition for the kindergarten, if any, and any of grades 1 to 8, inclusive, maintained by an elementary school district or a unified school district, or, (2) seven years of the date of acquisition for any of grades 7 to 12, inclusive, maintained by a high school district or a unified school district, or if a school district has a site at any grade level which has previously been used but has not been used for school purposes within the preceding five years, the school district shall be subject to nonuse payments, unless the State Allocation Board, from time to time, makes a determination that the school district will utilize the property for the purpose for which it was intended within a reasonable period of time, in a specific amount for each additional year in which the site is retained and not used by the district beyond the foregoing specified periods, except the first additional year shall be deemed to end not earlier than April 30, 1973.

The payments required shall be computed by the Executive Officer of the State Allocation Board and certified to the Controller, and payments shall be equal to one one-hundredth ($1/100$) of the original purchase price of the site modified by either a factor reflecting the change in assessed value of all lands in the state from the date of purchase of the site to the current date or any other factor which in the determination of the State Allocation Board is applicable to the site under consideration.

Whenever the State Allocation Board has determined that a school district in good faith has, within the preceding year, advertised the school site for sale to the highest bidder pursuant to the provisions of Article 4 (commencing with Section 39360) of Chapter 3 of Part 23 and has received no bids which in the judgment of the State Allocation Board reflect the fair market value of the property, the Executive Officer of the State Allocation Board shall not compute any nonuse payments for the site for a period of one year beyond the date of the determination.

Nonuse payments shall not be required for any year with respect to a school site that for one-half or more of the number of days of that year has been utilized (1) by the school district, or by any other governmental entity pursuant to agreement with the school district, for school or community playground, playing field, or other outdoor recreational purposes, or (2) by the State Allocation Board, pursuant to agreement with the school district, for the storage of emergency portable classrooms.

CHAPTER 1467

An act to amend Sections 18037.5, 18038.7, 18075, 18075.5, 18080, 18080.1, 18080.4, 18080.7, 18081, 18081.5, 18085, 18085.5, 18086.5, 18089, 18089.5, 18090.5, 18091.5, 18092, 18092.5, 18098, 18098.5, 18099.5, 18100, 18100.5, 18101, 18102, 18103, 18105, 18106, 18108, 18108.5, 18116.1, 18116.5, and 18117.5 of, and to add Section 18075.55 to, the Health and Safety Code, and to amend Section 229 of the Revenue and Taxation Code, relating to floating homes, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 18037.5 of the Health and Safety Code is amended to read:

18037.5. (a) In the event of default under the provisions of any security agreement relating to a loan or conditional sale contract which, according to its terms, gives the secured party the right to foreclose its security interest in a manufactured home, mobilehome, or floating home subject to registration under this part which is not inventory of a dealer, including the right to repossess the property, notwithstanding any contrary provisions in the security agreement or conditional sale contract or in any other agreement entered into prior to default, the secured party may foreclose its security interest only by satisfying the requirements of this section.

(1) Unless the registered owner of the manufactured home, mobilehome, or floating home has abandoned the property or has voluntarily surrendered possession of the property to the foreclosing creditor, the foreclosing creditor shall deposit or cause to be deposited in the United States mail an envelope addressed to each registered owner as shown on the current registration of the manufactured home, mobilehome, or floating home, registered or certified with postage prepaid, containing a notice in substantially the following form and in at least 10-point type, which notice shall be signed by the foreclosing creditor:

NOTICE OF DEFAULT

To: _____

(names of all registered owners)

You (if the registered owner is not the person who is in default, substitute name of defaulting person(s)) are in default under the terms of the _____

(identify security

_____

agreement by title or caption and date)

in that _____.
(describe default)

This default gives the creditor named below the right to sell your manufactured home, mobilehome, or floating home which is registered with the Department of Housing and Community Development under registration number(s) _____, located at
(give registration number(s))

_____
(give location of property as shown on current registration)

unless the default is promptly cured.

You may cure the default by _____
(describe conditions

_____
precedent to reinstatement required to cure default)

or by entirely repaying the outstanding secured indebtedness on or before _____
(state final date available for

_____.
cure, which date shall be no earlier than 45 days after mailing of the notice)

To cure the default you may also be required to reimburse the creditor for its reasonable attorney's fees and legal expenses and for any other sums to which the creditor may have become entitled under the terms of your credit agreement after the date of this notice. You may entirely repay the outstanding obligation by paying the creditor _____.
(state dollar amount required to obtain release of security interest, and if the amount may increase due to passage of time, state that fact)

plus any amount necessary to reimburse the creditor for its reasonable attorney's fees and legal expenses and any other sums to which the creditor may have become entitled after the date of this notice under the terms of your agreement.

(2) Within five days following the mailing of the notice of default required by paragraph (1), the foreclosing creditor shall forward a copy thereof to the legal owner shown on the current registration card, if different than the foreclosing creditor, and to each junior lienholder shown on the current registration card, if different than the foreclosing creditor, and, effective July 1, 1985, to the department. The notice shall be forwarded to each party in the same manner as provided for mailing the original notice to the registered owner.

(3) In the event of default under the provisions of any security agreement relating to a loan or conditional sale contract which, according to its terms, gives the secured party the right to foreclose its security interest in a manufactured home, mobilehome, or

floating home, each registered owner and each junior lienholder having a security interest which is subordinate to the security interest of the foreclosing creditor shall have the right to cure the default by the methods and in the manner prescribed in the notice within 45 days after mailing of the notice to the registered owner required by paragraph (1).

(4) If the default is not cured within the time indicated on the notice required by paragraph (1), or if the property has been abandoned by the registered owner or voluntarily surrendered by the registered owner to the foreclosing creditor, the creditor may proceed to sell the property at private or public sale pursuant to the provisions of Section 9504 of the Commercial Code, except as provided in paragraph (5) and subdivision (c). The notice of sale required by Section 9504 of the Commercial Code shall not be mailed or delivered before expiration of the period for the right to cure the default, as stated in the notice required by paragraph (1), unless the property has been abandoned by the registered owner or voluntarily surrendered by the registered owner to the foreclosing creditor.

(5) Notwithstanding any contrary provisions of Section 9504 of the Commercial Code, the foreclosing creditor shall deposit or cause to be deposited in the United States mail, registered or certified with postage prepaid, an envelope containing the notice of sale addressed to each party to whom the notice of default was mailed pursuant to paragraph (2). The notice of sale shall be given at least 10 days before the date fixed for a public sale or on or after which any private sale is to be made.

(6) For purposes of this subdivision, a manufactured home, mobilehome, or floating home shall be deemed abandoned if the foreclosing creditor gives written notice of its belief of abandonment to the registered owner as provided in this paragraph and the registered owner fails to give the foreclosing creditor written notice, prior to the appropriate date specified in the foreclosing creditor's notice, stating that the registered owner has not abandoned and does not intend to abandon the manufactured home, mobilehome, or floating home and stating an address at which the registered owner may be served by certified mail with a summons in connection with any legal action which the foreclosing creditor may appropriately initiate. The foreclosing creditor may give a notice of belief of abandonment only where it reasonably believes that the registered owner has abandoned the manufactured home, mobilehome, or floating home. The notice of belief of abandonment shall be personally delivered to the registered owner or sent by registered or certified mail, with postage prepaid, to the registered owner at his or her last known address and, if there is reason to believe that the notice sent to that address will not be received by the registered owner, to any other address, if any, known to the foreclosing creditor where the registered owner may reasonably be expected to receive the notice. The notice of belief of abandonment shall be in substantially the following form in at least 10-point type:

NOTICE OF BELIEF OF ABANDONMENT

To: _____

(names of all registered owners)

This notice is given pursuant to Section 18037.5 of the Health and Safety Code concerning your manufactured home, mobilehome, or floating home located at

_____.

(address of manufactured home, mobilehome, or floating home as shown on current registration)

You _____

(if the registered owner is not the person who is in default, substitute name of defaulting person(s))

are in default under the terms of the

_____

(identify security agreement or conditional sale contract by title or caption and date)

in that_____. This default gives the

(describe default)

creditor named below the right to sell your manufactured home, or floating home which is registered with the Department of Housing and Community Development under number(s)

_____

(give registration number(s))

unless the default is promptly cured. Unless the number(s)) creditor receives a written notice from you to the contrary by

_____,

(insert a date not less than 15 days after this notice is served personally or, if mailed, not less than 18 days after this notice is deposited in the mail)

your manufactured home, mobilehome, or floating home will be deemed abandoned, which means that the creditor may sell your manufactured home, mobilehome, or floating home sooner than would otherwise be permitted by law. The written notice you must send to the creditor shall be sent to

_____

(address of foreclosing creditor)

and shall state both of the following:

1. Your intent not to abandon the manufactured home, mobilehome, or floating home.

2. An address at which you may be served by certified mail with a summons in connection with any legal action which the foreclosing creditor may appropriately initiate.

_____

(name of creditor)

_____

(signature of creditor)

(b) In the event of default under the provisions of any security agreement relating to a loan or a conditional sale contract in which the collateral is a manufactured home, mobilehome, or floating home subject to registration under this part which is inventory of a dealer or a commercial coach, the secured party may repossess and dispose of the collateral in accordance with the provisions of the security agreement or conditional sale contract and applicable law, including the provisions of Division 9 (commencing with Section 9101) of the Commercial Code. Upon repossession of a manufactured home, mobilehome, or floating home subject to registration under this part which is inventory of a dealer or a commercial coach subject to registration under this part, the secured creditor shall prepare and forward to the department a notice of repossession on the form prescribed by the department.

(c) The proceeds of the sale of a manufactured home, mobilehome, commercial coach, or floating home shall be applied, in the following order, to:

(1) The reasonable and necessary expenses incurred for preparing for and conducting the sale and, if the foreclosing creditor has obtained possession of the collateral prior to the disposition, the reasonable and necessary expenses for the retaking and holding of the collateral and to the extent provided for in the agreement and not prohibited by law, reasonable attorney's fees and legal expenses incurred by the foreclosing creditor in retaking the property from any person not a party to the credit contract.

(2) The satisfaction of the indebtedness secured by the security interest of the foreclosing creditor under which the disposition is made.

(3) The satisfaction of indebtedness secured by any subordinate liens or encumbrances on the property in the order of their priority as provided in Section 18105, if with respect to a junior creditor 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 foreclosing creditor, the holder of a subordinate lien or encumbrance shall furnish reasonable proof of his or her interest, and unless it does so, the foreclosing creditor need not comply with its demand.

(4) The satisfaction of indebtedness secured by all senior liens or encumbrances in the order of their priority as provided in Section 18105, if with respect to a senior creditor written demand therefor is received by the foreclosing creditor before distribution of the proceeds is completed. If requested by the foreclosing creditor, the

holder of a senior lien or encumbrance shall furnish reasonable proof of his or her interest, and unless he or she does so, the foreclosing creditor need not comply with his or her demand.

(5) To the registered owner within 45 days after the sale is conducted if a surplus remains.

(d) Unless automatically provided to the registered owner within 45 days after the sale of a manufactured home, mobilehome, or floating home if a request for an accounting is made within one year of the sale, the foreclosing creditor shall provide to the registered owner a written accounting containing the gross sales proceeds and its allocation pursuant to subdivision (c). In the event any surplus is paid to the registered owner pursuant to paragraph (5) of subdivision (c), the foreclosing creditor shall furnish such an accounting whether or not requested by the registered owner.

SEC. 2. Section 18038.7 of the Health and Safety Code is amended to read:

18038.7. No deficiency judgment shall lie in any event, after the sale of any manufactured home, mobilehome, commercial coach, or floating home subject to registration pursuant to this part, for failure of the purchaser to complete his or her sale contract given to the seller to secure payment of the balance of the purchase price of the manufactured home, mobilehome, commercial coach, or floating home. The provisions of this section shall not apply in the event there is substantial damage to the manufactured home, mobilehome, commercial coach, or floating home other than wear and tear from normal usage.

SEC. 3. Section 18075 of the Health and Safety Code is amended to read:

18075. (a) Except as provided in Section 18075.7, all manufactured homes, mobilehomes, commercial coaches, truck campers, and floating homes shall be subject to the provisions of this code for the purposes of titling and registration.

(b) The department shall promulgate, adopt, and amend, as necessary, regulations to implement, interpret, and make specific the provisions of this chapter. Departmental regulations shall provide for an orderly and economical transfer of registrations and titles for manufactured homes, mobilehomes, commercial coaches, truck campers, and floating homes previously issued by the Department of Motor Vehicles to those issued by the department. Any registration, title, or decal issued by the Department of Motor Vehicles shall be valid until renewed, replaced, transferred, suspended, or revoked.

(c) The department may establish a schedule of fees to pay the costs of work related to administration and enforcement of this chapter, except where the fees are expressly stated herein.

SEC. 4. Section 18075.5 of the Health and Safety Code is amended to read:

18075.5. Manufactured homes, mobilehomes, commercial coaches, truck campers, and floating homes sold or used within this

state shall be subject to annual registration with the department and payment of registration fees prescribed by Section 18114 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.

(i) Floating homes, which are subject to local property taxation, as prescribed by Section 229 of the Revenue and Taxation Code, shall be subject to registration at the time of sale and upon any subsequent sale, resale, or transfer of title. Floating homes are subject to the fees prescribed by subdivision (b) of Section 18114 upon registration or reregistration.

SEC. 5. Section 18075.55 is added to the Health and Safety Code, to read:

18075.55. (a) Floating homes subject to real property taxation pursuant to Section 229 of the Revenue and Taxation Code shall be subject to registration and titling by the department only at the time of sale, resale, or transfer of title.

(b) Ownership registration and title to a floating home may be held by two or more co-owners in the manner specified in Sections 18080 and 18081.

(c) Upon receipt of a registration card, every registered owner

shall maintain the card or a copy thereof with the floating home for which it is issued.

(d) "Floating home," as used in this section, means a floating structure which is all of the following:

(1) It is designed and built to be used, or is modified to be used, as a stationary waterborne residential dwelling.

(2) It has no mode of power of its own.

(3) It is dependent for utilities upon a continuous utility linkage to a source originating on shore.

(4) It has a permanent continuous hookup to a shoreside sewage system.

This section does not affect existing law regarding residential use of tide and submerged lands.

SEC. 6. Section 18080 of the Health and Safety Code is amended to read:

18080. Ownership registration and title to a manufactured home, mobilehome, commercial coach, or truck camper, or floating home subject to registration may be held by two or more coowners as follows:

(a) A manufactured home, mobilehome, commercial coach, truck camper, or floating home may be registered in the names of two or more persons as joint tenants. Upon the death of a joint tenant, the interest of the decedent shall pass to the survivor or survivors. The signature of each joint tenant or survivor or survivors, as the case may be, shall be required to transfer or encumber the title to the manufactured home, mobilehome, commercial coach, truck camper, or floating home.

(b) A manufactured home, mobilehome, commercial coach, truck camper, or floating home may be registered in the names of two or more persons as tenants in common. If the names of the tenants in common are separated by the word "and", each tenant in common may transfer his or her individual interest in the manufactured home, mobilehome, commerical coach, truck camper, or floating home without the signature of the other tenant or tenants in common. However, the signature of each tenant in common shall be required to transfer full interest in the title to a new registered owner. If the names of the tenants in common are separated by the word "or", any one of the tenants in common may transfer full interest in the title to the manufactured home, mobilehome, commercial coach, truck camper, or floating home to a new registered owner without the signature of the other tenant or tenants in common. The signature of each tenant in common is required in all cases to encumber the title to the manufactured home, mobilehome, commercial coach, truck camper, or floating home.

(c) A manufactured home, mobilehome, commercial coach, truck camper, or floating home may be registered as community property in the names of a husband and wife. The signature of each spouse shall be required to transfer or encumber the title to the manufactured home, mobilehome, commercial coach, truck camper,

or floating home.

(d) All manufactured homes, mobilehomes, commercial coaches, truck campers, and floating homes registered, on or before January 1, 1985, in the names of two or more persons as tenants in common, as provided in subdivision (b), shall be considered to be the same as if the names of the tenants in common were separated by the word "or," as provided in subdivision (b).

SEC. 7. Section 18080.1 of the Health and Safety Code is amended to read:

18080.1. The registration of a manufactured home, mobilehome, commercial coach, truck camper, or floating home may be held in the name of a company, an estate, a trusteeship, a conservatorship, a guardianship, or an individual owner's name, as follows:

(a) In the case of an individual owner, the manufactured home, mobilehome, commercial coach, truck camper, or floating home shall be registered in the true name of the individual owner only. Complimentary or professional titles may be added to the true name only if the individual is commonly addressed by that title.

(b) In the case of a trusteeship or guardianship, the manufactured home, mobilehome, commercial coach, truck camper, or floating home shall be registered in the name of the person or persons designated as the trustees or conservators or guardians followed by the word "trustee," "guardian," or "conservator," whichever is appropriate. Transfer of ownership or encumbrance of a manufactured home, mobilehome, commercial coach, truck camper, or floating home so registered shall require the signatures of all designated trustees, conservators, or guardians, as evidenced by appropriate documentation.

(c) In the case of a manufactured home, mobilehome, commercial coach, truck camper, or floating home registered in the name of a company, the application for registration shall be countersigned by an officer or authorized agent of the company. Transfer of ownership or encumbrance of a manufactured home, mobilehome, commercial coach, truck camper, or floating home so registered shall require the signature of an officer or authorized agent of the company.

(d) In the case of a manufactured home, mobilehome, commercial coach, truck camper, or floating home registered to an estate, the application for registration shall be signed by the appointed executor or administrator of the estate as evidenced by appropriate documentation. Transfer of ownership or encumbrance of a manufactured home, mobilehome, commercial coach, truck camper, or floating home so registered shall require the signature of the appointed executor or administrator as evidenced by appropriate documentation.

SEC. 8. Section 18080.4 of the Health and Safety Code is amended to read:

18080.4. (a) Every registered owner, upon receipt of a registration card, shall maintain the card or a copy thereof with the manufactured home, mobilehome, commercial coach, truck camper,

or floating home for which it is issued.

(b) This section does not apply when a registration card is necessarily removed from the manufactured home, mobilehome, commercial coach, truck camper, or floating home for the purpose of application for renewal, amendment, or transfer of registration.

SEC. 9. Section 18080.7 of the Health and Safety Code is amended to read:

18080.7. (a) Each person acquiring or retaining a security interest in a manufactured home, mobilehome, commercial coach, truck camper, or floating home subject to registration under this part, unless the collateral is inventory, shall forward or cause to be forwarded to the department the application for original registration contemplated by Section 18085 with respect to a security interest acquired or retained at or before original registration, or the certificate of title or current registration card with appropriate insertions and signatures as respectively contemplated by Section 18100.5 with respect to a security interest acquired or retained at a time subsequent to original registration, together with the filing fee prescribed by department regulations.

(b) A security interest in a manufactured home, mobilehome, commercial coach, truck camper, or floating home subject to registration under this part, unless the collateral is inventory, is perfected when it has attached as contemplated by subdivision (a) and by subdivision (2) of Section 9203 of the Commercial Code and when the department has received the items required by subdivision (a), whichever occurs later, except as otherwise provided by Section 9305 of the Commercial Code. The department may adopt regulations authorizing its acceptance of a statement of lien by means of electronic facsimile. If the department adopts these regulations, a security interest may also be perfected when it has attached and when the department has received the electronic facsimile, whichever occurs later, subject to the receipt by the department of the items required by subdivision (a), other than the fee, within 10 days of the date of its receipt of the electronic facsimile, provided that the fee required by subdivision (a) is paid in a timely fashion pursuant to these regulations.

(c) Except as otherwise provided in subdivision (b) of Section 18100.5, upon receipt of the items required by subdivision (a), the department shall establish or amend the permanent title record of the manufactured home, mobilehome, commercial coach, truck camper, or floating home to reflect the interest of the secured party as of that date or, if within the preceding 10-day period the department has received an electronic facsimile of the statement of lien, as of the date of receipt of the electronic facsimile, provided that the fee required by subdivision (a) is paid in a timely fashion and the department actually receives the statement of lien within 10 days of its receipt of the electronic facsimile.

(d) Upon establishing or amending the permanent title record, the department shall issue to the registered owner a current

registration card indicating the interest of the secured party and shall forward a copy of that registration card to all persons holding a record security interest in the manufactured home, mobilehome, commercial coach, truck camper, or floating home.

(e) Except as otherwise provided in subdivision (b) of Section 18100.5, the department shall not refuse to establish or amend the permanent title record to indicate a security interest which is authorized by law to be recorded and which would otherwise satisfy statutory requirements for departmental documentation and recordation on the basis of lack of knowledge as to the attachment of the security interest prior to its receipt of the statement of lien or an electronic facsimile thereof.

(f) The department shall designate the holder of a perfected security interest as either the legal owner or a junior lienholder as provided in this article, Article 3 (commencing with Section 18085), or Article 4 (commencing with Section 18098), as applicable.

(g) The failure of a secured party to perfect a security interest for which there has been attachment shall not impair or affect in any way its enforceability against the registered owner or debtor with respect to the manufactured home, mobilehome, commercial coach, truck camper, or floating home.

(h) Except as otherwise provided in this part, a security interest in a manufactured home, mobilehome, commercial coach, truck camper, or floating home subject to registration with the department is governed by Division 9 (commencing with Section 9101) of the Commercial Code.

SEC. 10. Section 18081 of the Health and Safety Code is amended to read:

18081. (a) Any person may request, and the department shall furnish, information regarding the current registration and title status of a manufactured home, mobilehome, commercial coach, truck camper, or floating home. The department shall provide forms for these requests, shall establish a standard format for providing the information, and may charge fees to pay the cost of furnishing this information.

(b) Upon receipt of a properly executed request for information and the payment of prescribed fees, the department shall provide the information within five working days by first-class mail to the address indicated on the request. The department may adopt procedures for providing the information by electronic facsimile in addition to mailing that information.

SEC. 11. Section 18081.5 of the Health and Safety Code is amended to read:

18081.5. The transferee of a manufactured home, mobilehome, or floating home subject to local property taxation shall report the change in ownership information to the assessor in the county where the manufactured home, mobilehome, or floating home is sited, as provided in Article 2.5 (commencing with Section 480) of Chapter 3 of Part 2 of Division 1 of the Revenue and Taxation Code, unless

it is reported pursuant to subdivision (e) of Section 18080.5.

SEC. 12. Section 18085 of the Health and Safety Code is amended to read:

18085. (a) Application for the original registration of a manufactured home, mobilehome, commercial coach, truck camper, or floating home required to be registered under this part shall be made to the department upon the appropriate form approved by the department, and shall be accompanied by the filing fee prescribed by department regulations and the original manufacturer's certificate of origin in the form prescribed by Sections 18093 and 18093.5. If the original certificate of origin is not in existence, a duplicate thereof shall be obtained from the manufacturer and submitted with the application for original registration. Any duplicate copy shall be conspicuously marked as a duplicate copy.

(b) The application shall include, but not be limited to, all of the following:

(1) The true name and mailing address of the registered owner, the legal owner, if any, and junior lienholders, if any.

(2) The name of the county in which the registered owner resides.

(3) The situs address of the manufactured home, mobilehome, or commercial coach, or the county address of a truck camper owner, or floating home owner to include the county.

(4) A description of the manufactured home, mobilehome, commercial coach, truck camper, or floating home, including all of the following:

(A) The manufacturer's name and identification number.

(B) The date of manufacture.

(C) The serial number or numbers.

(D) The federal label number or numbers affixed pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Sec. 5401 et seq.) or department insignia number or numbers affixed pursuant to Section 18026.

(E) The date first sold or leased to a purchaser or lessee for purposes other than resale.

(F) Any other information as may be reasonably required by the department to enable it to determine whether the manufactured home, mobilehome, commercial coach, truck camper, or floating home is lawfully entitled to registration.

(c) If the application is for a floating home, other evidence of ownership may be accepted at the sole discretion of the department in lieu of the manufacturer's certificate of origin.

SEC. 13. Section 18085.5 of the Health and Safety Code is amended to read:

18085.5. The department shall not accept an application for the original registration of a manufactured home, mobilehome, commercial coach, or floating home unless the manufactured home, mobilehome, commercial coach, or floating home at the time of application is within the state or unless the provisions of this part have been complied with.

SEC. 14. Section 18086.5 of the Health and Safety Code is amended to read:

18086.5. (a) In the absence of the regularly required supporting evidence of ownership and upon application for registration or transfer of a manufactured home, mobilehome, commercial coach, truck camper, or floating home, the department may accept an undertaking or bond which shall be conditioned to protect the department and all officers and employees thereof and any subsequent purchaser of the manufactured home, mobilehome, commercial coach, truck camper, or floating home, any person acquiring a lien or security interest thereon, or the successor in interest of that purchaser or that person against any loss or damage on account of any defect in or undisclosed claim upon the right, title, and interest of the applicant or other person in and to the manufactured home, mobilehome, commercial coach, truck camper, or floating home.

(b) Any interested person shall have a right of action to recover on any bond or undertaking for any breach of the conditions for which the bond was deposited, but the aggregate liability of the surety to all persons shall in no event exceed the amount of the bond. In the event the manufactured home, mobilehome, commercial coach, truck camper, or floating home is no longer subject to registration in this state and the currently valid certificate of title is surrendered to the department, the bond or undertaking shall be returned and surrendered at the end of three years or, prior thereto, at the discretion of the department.

SEC. 15. Section 18089 of the Health and Safety Code is amended to read:

18089. In the event application is made in this state for registration of a manufactured home, mobilehome, commercial coach, truck camper, or floating home and the department is not satisfied as to the ownership of the manufactured home, mobilehome, commercial coach, truck camper, or floating home or the existence of foreign liens thereon, then the department may register the manufactured home, mobilehome, commercial coach, truck camper, or floating home and issue a registration card with distinctive markings, but shall withhold issuance of a California certificate of title, unless the applicant presents documents sufficient to reasonably satisfy the department of the applicant's ownership of the manufactured home, mobilehome, commercial coach, truck camper, or floating home and the absence of any liens thereon or posts a bond pursuant to subdivision (a) of Section 18086.5.

SEC. 16. Section 18089.5 of the Health and Safety Code is amended to read:

18089.5. In the event the department refuses to grant an application for registration in this state of a manufactured home, mobilehome, commercial coach, truck camper, or floating home previously registered in another state, the department shall immediately return to the applicant all documents submitted by the

applicant with the application.

SEC. 17. Section 18090.5 of the Health and Safety Code is amended to read:

18090.5. (a) Except as otherwise provided in Section 18089, the department, upon the original registration of a manufactured home, mobilehome, commercial coach, truck camper, or floating home, shall establish a permanent title record for the manufactured home, mobilehome, commercial coach, truck camper, or floating home and shall issue a certificate of title to the legal owner and a registration card to the registered owner.

(b) The department shall designate on the permanent title record as the legal owner the holder, if any, of the perfected security interest in the manufactured home, mobilehome, commercial coach, truck camper, or floating home. If there is more than one perfected security interest, the holder of the security interest designated in the application for the original registration as the legal owner shall be the legal owner.

(c) The department shall designate on the permanent title record as junior lienholders those holders, if any, of perfected security interests in the manufactured home, mobilehome, commercial coach, truck camper, or floating home other than the legal owner. If there is more than one junior lienholder, they shall be listed on the permanent title record in the same order as is designated in the application for the original registration. A copy of the registration card shall be sent to each junior lienholder and the creditor identified on the manufacturer's certificate of origin.

(d) If an application for registration specifies more than one secured creditor and the department is unable to determine from the application which creditor is to be the legal owner, or the seniority order in which junior lienholders are to be designated, the department shall so notify the applicant for registration and all secured creditors and shall withhold registration or transfer of registration until the department receives the designation.

(e) The certificate of title and the registration card issued pursuant to this section shall show the name and address of all registered owners, the legal owner, if any, and all junior lienholders, if any, with the junior lienholders listed in the same order as designated on the permanent title record.

SEC. 18. Section 18091.5 of the Health and Safety Code is amended to read:

18091.5. The registration card for a manufactured home, mobilehome, commercial coach, truck camper, or floating home shall contain all of the following:

(a) The date issued.

(b) The information required by Section 18085 in the application for registration.

(c) The registration number assigned to the manufactured home, mobilehome, commercial coach, truck camper, or floating home.

(d) The date of expiration, where applicable.

(e) Any other information as the department prescribes by regulation.

The department may modify the form, arrangement, and information appearing on the registration card and may provide for standardization and abbreviations whenever the efficiency of the department will be promoted thereby, except that general delivery or post office boxes shall not be permitted as the address of the registered owner unless there is no other address.

SEC. 19. Section 18092 of the Health and Safety Code is amended to read:

18092. (a) Every manufactured home, mobilehome, commercial coach, truck camper, or floating home subject to registration shall be issued a registration decal. The design of the decal shall be determined by the director and the decal shall be issued by the department. The decal shall be at least 2½ inches high and 2½ inches wide.

(b) The decals shall be applied to the outside of the mobilehome or commercial coach in a location within 15 inches of the lower front right-hand side which is clearly visible and these decals shall be maintained in a condition so as to be clearly legible. The decals shall be applied to the lower rear left-hand side of the truck camper.

For a floating home, the decal shall be applied in an area six inches from the main entry door on the side opposite the hinged side of the door at a point not less than two feet from either the top or bottom of the door and on the outside surface.

(c) The director, after consultation with county assessors, shall prescribe a registration decal for manufactured homes and mobilehomes subject to registration which clearly indicates, by color or otherwise, whether or not the manufactured home or mobilehome is subject to annual registration with the department or is subject to local property taxation, and this decal shall have provisions for indicating the current status of any registration fee.

SEC. 20. Section 18092.5 of the Health and Safety Code is amended to read:

18092.5. The department may refuse registration or the renewal or transfer of registration of a manufactured home, mobilehome, commercial coach, truck camper, or floating home in the following instances:

(a) If the department is not satisfied that the applicant is entitled thereto under this part.

(b) If the applicant has failed to furnish the department with information required in the application or reasonable additional information required by the department.

SEC. 21. Section 18098 of the Health and Safety Code is amended to read:

18098. Whenever any person, after making application for the registration of a manufactured home, mobilehome, commercial coach, truck camper, or floating home required to be registered under this part, or after obtaining registration or being recorded on

the permanent title record of the manufactured home, mobilehome, commercial coach, truck camper, or floating home registration as registered owner, legal owner, or junior lienholder, moves or acquires a new permanent address, or where a person other than the registered owner assigns his or her interest to any other person different from that shown on the certificate of title, the registration card, or the application therefor, that person shall, within 10 days thereafter, notify the department of both the old and new address. No penalty shall arise from failure to notify the department pursuant to this section, nor shall the department or any other person have liability for any notification required by law or regulation other than first-class mailing to the permanent address of record.

SEC. 22. Section 18098.5 of the Health and Safety Code is amended to read:

18098.5. Any registered owner of a manufactured home, mobilehome, commercial coach, truck camper, or floating home who moves or acquires a new permanent address different from the address shown upon the registration card issued for the manufactured home, mobilehome, commercial coach, truck camper, or floating home shall, within 10 days, mark out the former address shown on the face of the card and indelibly write or type the new address on the face of the card immediately below the former address and initial this change.

SEC. 23. Section 18099.5 of the Health and Safety Code is amended to read:

18099.5. (a) Except as otherwise provided in subdivision (b), no person shall move, permit to be moved, or cause to be moved, any manufactured home, mobilehome, or floating home from the situs indicated on the registration card, without first obtaining the written consent of the legal owner and of each junior lienholder, if any. The written consent shall be obtained on forms approved by the department. In the event that there is no legal owner and no junior lienholder, the registered owner shall complete the written consent form. The original copy of each written consent form shall accompany the manufactured home, mobilehome, or floating home to its new situs in lieu of a registration card.

(b) If the person proposing to move a manufactured home, mobilehome, or floating home required to be registered under this part shall have requested the consent required by subdivision (a) delivered to a secured party or mailed to such person by certified mail, return receipt requested, and the secured party has within 30 days neither given nor withheld its consent, the person proposing to move the manufactured home, mobilehome, or floating home shall notify the department on a form approved by the department of such event and a copy of such form shall accompany the manufactured home, mobilehome, or floating home to its new situs.

SEC. 24. Section 18100 of the Health and Safety Code is amended to read:

18100. Any registered owner, legal owner, or junior lienholder

who moves, permits to be moved, or causes to be moved, a manufactured home, mobilehome, or floating home subject to registration under this part shall apply to the department within 10 days therefrom for an amended registration card upon forms provided by the department and with fees for an amended registration card as prescribed by the department. The application shall include, but not be limited to, all of the following:

(a) A copy of the written consent form required by Section 18099.5.

(b) Any information which the department may require relating to the new situs location.

(c) The current registration card.

In the event that the new situs location cannot be determined at the time of application, the application shall so indicate and the department shall hold the application in suspense until this information is received. The applicant or the applicant's agent shall, immediately upon determining a new situs address where the manufactured home, mobilehome, or floating home is to be installed for occupancy, notify the department of the new situs address.

Upon receipt of the completed application the department shall issue an amended registration card for the manufactured home, mobilehome, or floating home to the registered owner.

SEC. 25. Section 18100.5 of the Health and Safety Code is amended to read:

18100.5. (a) If the title or interest of a registered owner, legal owner, junior lienholder in a manufactured home, mobilehome, commercial coach, or truck camper, or floating home for which an original registration under this part has been obtained is transferred to another person, or, if all outstanding secured obligations previously held by a legal owner registered on the original or a subsequent registration or by a junior lienholder are satisfied and the person no longer has any obligation to extend credit, incur obligations, or otherwise give value to be secured by the manufactured home, mobilehome, commercial coach, truck camper, or floating home, or, if a security interest is taken in a manufactured home, mobilehome, commercial coach, truck camper, or floating home after the permanent title record has been established, the department shall be notified within 20 days and shall act as follows:

(1) If the title or interest of a registered owner or legal owner is being transferred, the transferor and the transferee of the title or interest shall execute in the manner prescribed by the department the certificate of title for the manufactured home, mobilehome, commercial coach, truck camper, or floating home. If the transfer is made by a registered owner and the transferee is to assume the underlying indebtedness secured by the manufactured home, mobilehome, commercial coach, truck camper, or floating home and owed to a legal owner, the legal owner shall state on the certificate of title that legal title and interest are to be retained. The certificate of title along with all other supporting documents shall be fowarded

to the department with appropriate fees. The department shall appropriately amend the permanent title record of the manufactured home, mobilehome, commercial coach, truck camper, or floating home, forward a new certificate of title reflecting the change to the permanent title record to the legal owner by first-class mail, and forward an amended registration card reflecting the change to the permanent title record to the registered owner with copies to all secured parties shown on the permanent title record. If there is no legal owner, the new certificate of title and amended registration card shall be forwarded to the registered owner.

(2) If the interest of a junior lienholder is being transferred, the transferor and the transferee shall execute in a manner prescribed by the department the registration card, and the card so executed shall be forwarded to the department with appropriate fees. The department shall appropriately amend the permanent title record and forward an amended registration card reflecting the change to the permanent title record to the registered owner with copies to all secured parties shown on the permanent title record.

(3) If a creditor acquires a security interest in a manufactured home, mobilehome, commercial coach, truck camper, or floating home after the permanent title record has been established, the department shall amend the permanent title record to reflect the interest as that of a legal owner or as that of a junior lienholder, as appropriate. If the permanent title record already reflects the interest of one or more junior lienholders, the creditor then perfecting its interest pursuant to this section shall be designated as the most junior lienholder.

(4) If a legal owner no longer holds an outstanding obligation or a commitment to make advances, incur obligations, or otherwise give value to be secured by the manufactured home, mobilehome, commercial coach, or truck camper, or floating home, the legal owner shall indicate its release of lien by appropriately signing the certificate of title for the manufactured home, mobilehome, commercial coach, truck camper, or floating home and forward the certificate of title to the department with appropriate fees. The department shall appropriately amend the permanent title record for the manufactured home, mobilehome, commercial coach, truck camper, or floating home, deliver a new certificate of title reflecting the change to the permanent title record to the new legal owner, if any, by first-class mail, and forward an amended registration card reflecting the change to the permanent title record to the registered owner with copies to all secured parties shown on the registration card. For purposes of this paragraph, the following person shall be designated as the new legal owner:

(A) The junior lienholder, if any.

(B) If there is more than one junior lienholder, the junior lienholder whose statement of lien was designated as the most senior junior lienholder on the permanent title record shall be the legal owner.

(5) If a junior lienholder no longer holds an outstanding obligation or a commitment to make advances, incur obligations, or otherwise give value to be secured by the manufactured home, mobilehome, commercial coach, truck camper, or floating home, the junior lienholder shall forward the properly executed and released junior lienholder registration card to the department with appropriate fees. The department shall appropriately amend the permanent title record for the manufactured home, mobilehome, commercial coach, truck camper, or floating home and forward an amended registration card reflecting the change to the permanent title record to the registered owner with copies to all secured parties shown on the permanent title record.

(b) (1) Notwithstanding subdivision (d) of this section and subdivisions (c) and (e) of Section 18080.7, for the 120-day period beginning upon the receipt by the department of the notice of escrow and appropriate fee provided by paragraph (1) of subdivision (d) of Section 18035, or until the escrow is canceled or until the escrow closes and the resulting transfers of ownership interests and transfers or creation of legal owner and junior lienholder interests are acknowledged by the department as amendments to the permanent title record of the manufactured home, mobilehome, or floating home, whichever is earlier, the department, except at its sole discretion, shall impose a moratorium on all of the following:

(A) On any other amendments to the permanent title record of the manufactured home, mobilehome, floating home for the purpose of transferring any ownership interest or transferring or creating any security interest in the manufactured home or mobilehome.

(B) On issuing any duplicate, substitute, or new certificate of title, registration card, or copy of a registration card regarding the manufactured home, mobilehome, or floating home.

(C) On subsequent notices of escrow openings.

(2) The department shall, upon receipt of the notice of escrow and the appropriate fee, forward to the escrow agent an acknowledgement of receipt and a true and correct copy of the permanent title record as of the commencement of the period of moratorium.

(c) If a secured party fails to comply with the provisions of subdivision (a) relating to releases of lien and the secured party thereafter receives a written demand from the registered owner that the secured party release its lien, the secured party shall be liable to the registered owner for all actual damages suffered by the registered owner by reason of the failure to release the lien unless the secured party, within 20 days of receipt of the demand, complies with the requirements of subdivision (a), except where the secured party has reasonable cause for noncompliance.

(d) Whenever the title or interest of the registered owner or legal owner in or to a manufactured home, mobilehome, commercial coach, truck camper, or floating home registered under this part passes to another in a manner other than by voluntary transfer, the

new registered owner or legal owner may obtain a transfer of registration upon application therefor and upon presentation of the last certificate of title, if available, and current registration card, if available, issued for the manufactured home, mobilehome, commercial coach, truck camper, or floating home and any instruments or documents of authority or certified copies thereof as may be required by the department, or required by law, to evidence or effect the transfer of title or interest in that case. The department, when satisfied of the genuineness and regularity of the transfer, shall amend the permanent title record of the manufactured home, mobilehome, commercial coach, truck camper, or floating home, issue a new current registration card and certificate of title, and forward copies of the current registration card to all junior lienholders.

(e) The department shall not transfer registration until the applicant complies with the requirements of Section 18092.7.

SEC. 26. Section 18101 of the Health and Safety Code is amended to read:

18101. No transfer of the title of a manufactured home, mobilehome, commercial coach, truck camper, or floating home registered under this code shall be effective until the transferor has made proper endorsement and delivery of the certificate of title and delivery of the registration card to the transferee as provided in this code.

SEC. 27. Section 18102 of the Health and Safety Code is amended to read:

18102. Upon the death of a registered or legal owner of a manufactured home, mobilehome, commercial coach, truck camper, or floating home registered under this part, without the decedent leaving other property necessitating probate, unless the manufactured home, mobilehome, commercial coach, or truck camper is, by will, otherwise bequeathed, and irrespective of the value of the manufactured home, mobilehome, commercial coach, truck camper, or floating home the surviving heir or beneficiary in the order named in Section 630 of the Probate Code may secure a transfer of registration of the title or interest of the decedent upon presenting to the department all of the following:

(a) The appropriate certificate of title and registration card, if available.

(b) A certified statement of the heir or beneficiary setting forth his or her interest in the estate of the decedent.

(c) The names and addresses of any other heirs or beneficiaries.

(d) If required by the department, a certificate of the death of the decedent.

(e) A statement that there are no creditors of the decedent or, if so, that the creditors of the decedent have been paid in full or their claims have been otherwise discharged.

SEC. 28. Section 18103 of the Health and Safety Code is amended to read:

18103. Whenever application is made to the department for a transfer of registration of a manufactured home, mobilehome, commercial coach, truck camper, or floating home to a new registered or legal owner and the applicant is unable to present the registration card issued for the manufactured home, mobilehome, commercial coach, truck camper, or floating home because it is in the possession of the department upon an application for renewal of registration, the department may transfer the registration of the manufactured home, mobilehome, commercial coach, truck camper, or floating home upon production of the properly endorsed certificate of title to the manufactured home, mobilehome, commercial coach, truck camper, or floating home and a temporary receipt, on a form prescribed by the department containing any information that the department deems necessary, including, but not limited to, the registration decal number assigned to the manufactured home, mobilehome, commercial coach, truck camper, or floating home and the serial number of the manufactured home, mobilehome, commercial coach, truck camper, or floating home and accompanied by the amount of fees for renewal of the registration.

SEC. 29. Section 18105 of the Health and Safety Code is amended to read:

18105. (a) Except as otherwise provided in subdivision (e) or (g), the security interest of the legal owner has priority over conflicting security interests of junior lienholders and holders of security interests perfected pursuant to Section 9305 of the Commercial Code and of unperfected security interests in a manufactured home, mobilehome, commercial coach, truck camper, or floating home subject to registration under this part and its proceeds.

(b) Except as otherwise provided in subdivision (e) or (g), the security interest of a junior lienholder has priority over conflicting security interests of holders of security interests perfected pursuant to Section 9305 of the Commercial Code and of unperfected security interests in a manufactured home, mobilehome, commercial coach, truck camper, or floating home subject to registration under this part and its proceeds. Conflicting security interests of junior lienholders rank in the order designated on the permanent title record maintained by the department.

(c) Except as otherwise provided in subdivision (e) or (g), a security interest perfected pursuant to Section 9305 of the Commercial Code has priority over conflicting unperfected security interests in a manufactured home, mobilehome, commercial coach, truck camper, or floating home subject to registration under this part and its proceeds.

(d) Except as otherwise provided in subdivision (e) or (g), conflicting unperfected security interests in a manufactured home, mobilehome, commercial coach, truck camper, or floating home subject to registration under this part and its proceeds rank according to priority in time of attachment.

(e) (1) Except as otherwise provided in subdivision (g), the security interest of any secured party shall not have priority over any security interest of a party having a subordinate security interest by virtue of the preceding provisions of this section to the extent that the otherwise senior secured obligation was incurred subsequent to receipt by that creditor of actual or constructive notice of the existence of the otherwise junior security interest unless the obligation arose pursuant to the terms of a security agreement for the purpose of preserving the collateral or protecting the interest of the senior secured party therein or unless the otherwise senior secured obligation was incurred under a binding agreement that the credit would be extended by that creditor.

(2) For purposes of this subdivision receipt of a copy of the registration certificate which reflects the existence of a security interest shall constitute constructive notice of the existence of the security interest. In interpreting the provisions of this subdivision but for no other purposes, it is the intent of the Legislature that the priorities among conflicting security interests be determined in accordance with the rules of law applicable to priority as to interests in real property.

(f) Except as otherwise provided in subdivision (g), the security interest of the legal owner or a junior lienholder has priority over a conflicting security interest of a holder of a perfected security interest in a manufactured home, mobilehome, commercial coach, truck camper, or floating home subject to registration under this part which is inventory, including the proceeds of the inventory. The rules of priority regarding conflicting security interests of holders of a perfected security interest in a manufactured home, mobilehome, commercial coach, truck camper, or floating home subject to registration under this part which is inventory and of holders of security interests perfected pursuant to Section 9305 of the Commercial Code or unperfected security interests in a manufactured home, mobilehome, commercial coach, truck camper, or floating home subject to registration under this part shall be governed by Section 9312 of the Commercial Code.

(g) If the holders of two or more of the several security interests shall otherwise agree among themselves, the relative priorities among the holders of security interests who have so agreed shall be determined according to this agreement.

SEC. 30. Section 18106 of the Health and Safety Code is amended to read:

18106. (a) As used in this section, "lien creditor" means a creditor who has acquired a lien on a manufactured home, mobilehome, commercial coach, truck camper, or floating home subject to registration under this part by attachment, levy, or the like and includes an assignee for benefit of creditors from the time of assignment, and a trustee in bankruptcy from the date of the filing of the petition, or a receiver in equity from the time of appointment, as contemplated by subdivision (3) of Section 9301 of the

Commercial Code.

(b) Except as provided in subdivision (c), an unperfected security interest in a manufactured home, mobilehome, commercial coach, truck camper, or floating home subject to registration under this part is subordinate to the rights of a person who becomes a lien creditor before the security interest is perfected.

(c) If a security interest in a manufactured home, mobilehome, commercial coach, truck camper, or floating home becomes perfected as contemplated by subdivision (a) of Section 18080.7, the security interest is senior to the rights of a lien creditor which arise between the time the security interest attaches and the time of perfection.

(d) A person who becomes a lien creditor while a security interest in a manufactured home, mobilehome, commercial coach, truck camper, or floating home is perfected by any of the means contemplated by subdivision (b) of Section 18080.7 takes subject to the perfected security interest only to the extent that it secures advances either made before that person becomes a lien creditor or made thereafter which would otherwise be senior to a competing security interest as provided in subdivision (e) of Section 18105.

SEC. 31. Section 18108 of the Health and Safety Code is amended to read:

18108. If any registration card or registration decal is stolen, lost, mutilated, or illegible, the registered owner of the manufactured home, mobilehome, commercial coach, truck camper, or floating home for which it was issued, as shown by the records of the department, shall immediately make application for, and may, upon the applicant furnishing information satisfactory to the department and paying the required fees, obtain a duplicate, substitute, or new registration under a new registration number, as determined by the department.

SEC. 32. Section 18108.5 of the Health and Safety Code is amended to read:

18108.5. If any certificate of title is stolen, lost, mutilated, or illegible, the legal owner of the manufactured home, mobilehome, commercial coach, truck camper, or floating home for which it was issued, as shown by the records of the department, shall immediately make application for, and may, upon payment of required fees and the applicant furnishing information satisfactory to the department, obtain a duplicate certificate of title.

SEC. 33. Section 18116.1 of the Health and Safety Code is amended to read:

18116.1. (a) Nonpayment of the fees and penalties provided for in Sections 18114 and 18115 and in subdivisions (a), (b), and (c) of Section 18116 that are due on a mobilehome, manufactured home, commercial coach, truck camper, or floating home shall constitute a lien in favor of the State of California in the amount owing.

(b) Notwithstanding any other provision of law, the lien provided for in subdivision (a) shall continue to accrue for all registration years

in which the fees and penalties remain unpaid.

(c) Until the amount of a lien provided for in subdivision (a) or (b) is paid to the department, the department shall not do either of the following:

(1) Amend the permanent title record of the manufactured home or mobilehome which is the subject of the lien for the purpose of transferring any ownership interest or transferring or creating any security interest in the manufactured home or mobilehome.

(2) Issue any duplicate, substitute, or new certificate of title, registration card, or copy of a registration card with respect to the manufactured home or mobilehome which is the subject of the lien.

SEC. 34. Section 18116.5 of the Health and Safety Code is amended to read:

18116.5. Used manufactured homes, used mobilehomes, and used floating homes subject to local property taxation are exempt from the payment of use tax upon resale or transfer as provided in Section 6379 of the Revenue and Taxation Code.

SEC. 35. Section 18117.5 of the Health and Safety Code is amended to read:

18117.5. The transfer fee is delinquent if not paid within 20 days of receipt by the transferee of a properly executed certificate of title for the manufactured home, mobilehome, commercial coach, truck camper, or floating home.

SEC. 36. Section 229 of the Revenue and Taxation Code is amended to read:

229. (a) A floating home shall be assessed in the same manner as real property.

(b) For purposes of determining the valuation of floating homes pursuant to this section, the procedures set forth in Section 110.1 shall apply, except that:

(1) The 1979 lien date shall be substituted for the 1975 lien date.

(2) The 1979–80 assessment roll shall be substituted for the 1975–76 assessment roll.

(3) The date January 1, 1983, shall be substituted for the dates June 30, 1980, and June 30, 1981.

(c) "Floating home" means a floating structure which is all of the following:

(1) It is designed and built to be used, or is modified to be used, as a stationary waterborne residential dwelling.

(2) It has no mode of power of its own.

(3) It is dependent for utilities upon a continuous utility linkage to a source originating on shore.

(4) It has a permanent continuous hookup to a shoreside sewage system.

"Floating home" does not include a vessel. This section does not affect existing law regarding residential use of tide and submerged lands.

SEC. 37. Section 5 of this act makes a classification or exemption of property for purposes of ad valorem property taxation within the

meaning of Section 2229 of the Revenue and Taxation Code.

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. This act is an urgency statute necessary for the immediate preservation of 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:

Under existing laws, many persons wishing to sell or transfer floating homes are unable to do so because adequate financing is not available. This bill will make floating homes better security for loans and provide a remedy for this situation. In order to make this remedy available as soon as possible and to make "floating homes" subject to various provisions of the Mobilehomes-Manufactured Housing Act of 1980, it is necessary for this act to take effect immediately.

CHAPTER 1468

An act relating to environmental protection, and making an appropriation therefor.

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

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

SECTION 1. The Legislature finds and declares all of the following:

(a) The Portuguese Bend landslide on the Palos Verdes Peninsula has destroyed private property resulting in local revenue losses of two million dollars ($2,000,000) annually.

(b) The continued movement of the slide threatens continued use of Palos Verdes Drive South, the primary transportation route for residents in the southern region of the Palos Verdes Peninsula and the County of Los Angeles, which is intermittently closed to public bus lines due to the state of disrepair.

(c) Continued movement of the slide threatens coastal access and recreational opportunities along the shore.

(d) Continued movement of the slide threatens the public health and safety by its continual disruption of water, power, telephone, natural gas, and sewage lines.

(e) The slide is the largest in the State of California and offers unique educational value to educational institutions concerned with the causes and prevention of similar natural disasters elsewhere.

(f) Action is required now to remedy this natural disaster because

slide movement has reached a critical speed, which will result in substantial additional damages in the immediate future, and potential solutions to remedying this problem have only recently been demonstrated.

SEC. 2. Notwithstanding any other provision of law, of the amounts received from the settlement pursuant to Section 8(g) of the Outer Continental Shelf Lands Act as amended (43 U.S.C. Sec. 1337(g)), two million dollars ($2,000,000) shall be second in allocation priority to the funds appropriated in Item 9675-101-890 of the Budget Act of 1985 (Chapter 111, Statutes of 1985) and shall be appropriated from the Federal Trust Fund to the Controller for transfer to the City of Rancho Palos Verdes, upon request of the city, as follows:

(a) Two hundred fifty thousand dollars ($250,000) for engineering and administrative costs. Engineering expenditures shall be for costs for the design, construction, and operation of economical structures, equipment, and systems which aid in the stabilization of the Portuguese Bend landslide. Administrative expenditures shall be for costs associated with management, oversight, and implementation of the projects described in subdivisions (b), (c), and (d).

(b) Four hundred thousand dollars ($400,000) for dewatering. Dewatering expenditures shall be for costs to install dewatering wells, pipes, and pumps to transport subsurface water contributing to slide instability to the Pacific Ocean.

(c) Seven hundred fifty thousand dollars ($750,000) for surface water drainage systems. Surface water drainage expenditures shall be for costs to reestablish natural canyon drainage in various locations throughout the slide area and maintain an adequate system for surface water runoff from the slide to the Pacific Ocean.

(d) Six hundred thousand dollars ($600,000) for grading. Grading expenditures shall be for land grading costs to close slide-created land fissures and to fill land depressions to prevent water ponding within the slide area. Grading expenditures shall also include the relocation of approximately 300,000 cubic yards of earth from points within the slide area at which it acts as a landslide driving force to points within the slide area at which it will provide a resistive force to slide action.

(e) Notwithstanding the specific amounts allocated pursuant to this section, of the total amount appropriated in this section, the Controller may retain up to 2 percent for administrative costs.

SEC. 3. Neither the state, nor any officer or employee of the state, shall incur any liability for any injury resulting from any activity conducted using funds allocated pursuant to this act solely on the basis that these funds were provided by the state pursuant to this act.

CHAPTER 1469

An act to amend Section 25375 of the Health and Safety Code, relating to hazardous substances, and making an appropriation therefor.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. 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.

(3) One hundred percent of uninsured, out-of-pocket expenses for remedial action on the claimant's property undertaken to address a release of a hazardous substance when all of the following apply:

(A) The claimant's property is an owner-occupied single-family residence.

(B) The remedial action was ordered by federal, state, or local authorities due to a release of a hazardous substance.

(C) The department makes one of the following determinations:

(i) The release of the hazardous substance originated outside the boundaries of the property.

(ii) The release of the hazardous substance occurred on the property, was the result of an action which violated state or federal law, and the responsible party cannot be identified or cannot be located, or a judgment against the responsible party cannot be satisfied.

The maximum compensation under this paragraph is limited to twenty-five thousand dollars ($25,000) per residence and to one hundred thousand dollars ($100,000) for five contiguous residential properties. Any compensation provided shall be reduced by the amount that the remedial action results in a capital improvement to the claimant's residence.

(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. 2. 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.

(3) One hundred percent of uninsured, out-of-pocket expenses for remedial action on the claimant's property undertaken to address a release of a hazardous substance when all of the following apply:

(A) The claimant's property is an owner-occupied single-family residence.

(B) The remedial action was ordered by federal, state, or local authorities due to a release of a hazardous substance.

(C) The department makes one of the following determinations:

(i) The release of the hazardous substance originated outside the boundaries of the property.

(ii) The release of the hazardous substance occurred on the property, was the result of an action which violated state or federal law, and the responsible party cannot be identified or cannot be located, or a judgment against the responsible party cannot be satisfied.

The maximum compensation under this paragraph is limited to twenty-five thousand dollars ($25,000) per residence and to one hundred thousand dollars ($100,000) for five contiguous residential properties. Any compensation provided shall be reduced by the amount that the remedial action results in a capital improvement to the claimant's residence.

(4) One hundred percent of the fair market value of owner-occupied real property that is rendered permanently unfit for occupancy because of the release of a hazardous substance. For purposes of this paragraph, real property is rendered permanently unfit for occupancy only if a state or federal agency requires that it be evacuated for a period of six or more months because of the release of a hazardous substance. The fair market value of the real property shall be determined by an independent appraiser, and shall

be considered by the independent appraiser as being equal to the value of the real property prior to the release of the hazardous substance that caused the evacuation of the property. Where compensation is made by the board pursuant to this paragraph, sole ownership of the real property shall be transferred to the state and any proceeds resulting from the final disposition of the real property shall be deposited into the state account, for expenditure by the department upon appropriation by the Legislature. To be eligible for compensation pursuant to this paragraph, claims for compensation shall be made within 12 months of the date on which the evacuation was ordered.

(5) One hundred percent of the expenses incurred due to the evacuation of a residence ordered by a state or federal agency. For purposes of this paragraph, "evacuation expenses" include the cost of shelter and any other emergency expenditures incurred due to an evacuation ordered by a state or federal agency. The board may provide compensation, pursuant to this paragraph, only if it finds that the evacuation expenses represent reasonable costs for the goods or services purchased, and would not have been incurred if an evacuation caused by a hazardous substance release had not occurred. The board may provide compensation for these evacuation expenses only if they were incurred within 12 months from the date on which evacuation was ordered.

(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.

(4) For purposes of paragraphs (4) and (5) of subdivision (a), the hazardous substance release, or the order which resulted in the claim for compensation occurred on or after January 1, 1986.

(5) The conditions and requirements of this article including, but not limited to, the conditions of Sections 25372 and 25373, have been met.

(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. 3. Section 2 of this bill incorporates amendments to Section 25375 of the Health and Safety Code proposed by both this bill and AB 651. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 25375 of the Health and Safety Code, and (3) this bill is enacted after AB 651, in which case Section 1 of this bill shall not become operative.

CHAPTER 1470

An act to amend Section 60248 of, and to add Section 60247.5 to, the Education Code, relating to school instructional materials, and making an appropriation therefor.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 60247.5 is added to the Education Code, to read:

60247.5. (a) For the 1985–86 fiscal year, in addition to any amounts apportioned pursuant to Section 60247, the Superintendent of Public Instruction shall apportion 30 percent of the amount appropriated by Section 3 of Senate Bill 51 of the 1985–86 Regular Session, so that each school district receives an equal amount per pupil enrolled in grades 9 through 12 in the district in the prior fiscal year for purposes of purchasing instructional materials, supplies, and equipment for use in science classes in those grade levels, and for the purpose of minor remodeling of buildings for science instruction in grades 9 through 12. No school district shall use funds apportioned pursuant to this subdivision to lease, construct, lease-purchase, or otherwise acquire any facility.

(b) Any school district that receives an apportionment pursuant to subdivision (a) and certifies to the Superintendent of Public Instruction that it has sufficient funds to provide instructional materials in the 1985–86 fiscal year for the science courses required by Section 51225.3 may redirect all or a portion of the amount received pursuant to subdivision (a) for the purchase of instructional materials in other subject areas for pupils in grades 9 through 12.

SEC. 2. Section 60248 of the Education Code is amended to read:

60248. School district governing boards shall use the funds apportioned pursuant to Section 60247 solely for the purchase of instructional and other materials, as defined in Article 2 (commencing with Section 60010) of Chapter 1, for pupils in grades 9 through 12. Textbooks purchased with these funds shall be those adopted in accordance with Sections 60400 and 60401.

SEC. 3. (a) The sum of seven million five hundred forty thousand dollars ($7,540,000) is hereby appropriated from settlement funds received by the state pursuant to Section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. Sec. 1337(g)) to the State Instructional Materials Fund for the 1985–86 fiscal year. The funds appropriated by this subdivision shall supplement, and shall not supplant, any other funds appropriated for instructional materials by the Budget Act of 1985.

(b) Seventy percent of the funds appropriated by subdivision (a) shall be used according to Section 4 of this act, and the remaining 30

percent shall be apportioned pursuant to Section 60247.5 of the Education Code.

SEC. 4. Seventy percent of the funds appropriated by Section 3 of this act shall be expended in accordance with the provisions of Article 3 (commencing with Section 60240) of Chapter 2 of Part 33 of the Education Code for the benefit of pupils enrolled in kindergarten and grades 1 through 8.

SEC. 5. Funds appropriated by Section 3 of this act shall supplement, and shall not supplant or be supplanted by, any payments for public education made pursuant to Chapter 12.5 (commencing with Section 8880) of Division 1 of Title 2 of the Government Code.

CHAPTER 1471

An act to add Section 6713 to the Government Code, relating to Stepparents Day, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 6713 is added to the Government Code, to read:

6713. The Governor shall annually proclaim the first Sunday in October to be known as "Stepparents Day."

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 give appropriate recognition as soon as possible to stepparents, who play a major role in the rearing of children, it is necessary that this act take effect immediately.

CHAPTER 1472

An act to amend Section 1203.4 of the Penal Code, relating to criminal procedure.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 1203.4 of the Penal Code is amended to read:

1203.4. (a) In any case in which a defendant has fulfilled the conditions of probation for the entire period of probation, or has been discharged prior to the termination of the period of probation, or in any other case in which a court, in its discretion and the interests of justice, determines that a defendant should be granted the relief available under this section, the defendant shall, at any time after the termination of the period of probation, if he or she is not then serving a sentence for any offense, on probation for any offense, or charged with the commission of any offense, be permitted by the court to withdraw his or her plea of guilty or plea of nolo contendere and enter a plea of not guilty; or, if he or she has been convicted after a plea of not guilty, the court shall set aside the verdict of guilty; and, in either case, the court shall thereupon dismiss the accusations or information against the defendant and except as noted below, he or she shall thereafter be released from all penalties and disabilities resulting from the offense of which he or she has been convicted, except as provided in Section 13555 of the Vehicle Code. The probationer shall be informed, in his or her probation papers, of this right and privilege and his or her right, if any, to petition for a certificate of rehabilitation and pardon. The probationer may make the application and change of plea in person or by attorney, or by the probation officer authorized in writing; however, in any subsequent prosecution of the defendant for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if probation had not been granted or the accusation or information dismissed. The order shall state, and the probationer shall be informed, that the order does not relieve him or her of the obligation to disclose the conviction in response to any direct question contained in any questionnaire or application for public office or for licensure by any state or local agency.

Dismissal of an accusation or information pursuant to this section does not permit a person to own, possess, or have in his or her custody or control any firearm capable of being concealed upon the person or prevent his or her conviction under Section 12021.

This subdivision shall apply to all applications for relief under this section which are filed on or after November 23, 1970.

(b) Subdivision (a) of this section does not apply to any misdemeanor which is within the provisions of subdivision (b) of Section 42001 of the Vehicle Code, or to any infraction.

(c) A person who petitions for a change of plea or setting aside of a verdict under this section may be required to reimburse the county for the cost of services rendered at a rate to be determined by the county board of supervisors not to exceed sixty dollars ($60), and to reimburse any city for the cost of services rendered at a rate to be determined by the city council not to exceed sixty dollars ($60).

Ability to make this reimbursement shall be determined by the court using the standards set forth in paragraph (2) of subdivision (f) of Section 987.8 and shall not be a prerequisite to a person's eligibility under this section. The court may order reimbursement in any case in which the petitioner appears to have the ability to pay, without undue hardship, all or any portion of the cost for services established pursuant to this subdivision.

(d) No relief shall be granted under this section unless the prosecuting attorney has been given 15 days' notice of the petition for relief. The probation officer shall notify the prosecuting attorney when a petition is filed, pursuant to this section.

It shall be presumed that the prosecuting attorney has received notice if proof of service is filed with the court.

(e) If, after receiving notice pursuant to subdivision (d), the prosecuting attorney fails to appear and object to a petition for dismissal, the prosecuting attorney may not move to set aside or otherwise appeal the grant of that petition.

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 1473

An act to amend Section 1502 of the Health and Safety Code, and to add Section 5405 to the Welfare and Institutions Code relating to children's services.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 1502 of the Health and Safety Code is amended to read:

1502. As used in this chapter:

(a) "Community care facility" means any facility, place, or building which is maintained and operated to provide nonmedical residential care, day treatment, adult day care, or homefinding agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, the mentally impaired, incompetent persons, and abused or neglected children, and includes the following:

(1) "Residential facility" means any family home, group care facility, or similar facility determined by the director, for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for

the protection of the individual.

(2) "Residential care facility for the elderly" means a group housing arrangement chosen voluntarily by residents who are over 62 years of age and who are provided varying levels of supportive services or care, as agreed upon at the time of admission, based upon their varying needs.

(3) "Adult day care facility" means any facility which provides nonmedical care to persons 18 years of age or older in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis.

(4) "Day treatment facility" means any facility which provides nonmedical care, counseling, educational or vocational support, or social rehabilitation services on less than a 24-hour basis to persons under 18 years of age who would otherwise be placed in foster care or who are returning to families from foster care. Program standards for these facilities shall be developed by the department, pursuant to Section 1530, in consultation with day treatment and foster care providers.

(5) "Homefinding agency" means any individual or organization engaged in finding homes or other places for placement of persons of any age for temporary or permanent care or adoption.

(6) "Foster family home" means any residential facility providing 24-hour care for six or fewer foster children which is owned, leased, or rented and is the residence of the foster parent or parents, including their family, in whose care the foster children have been placed. Such placement may be by a public or private child placement agency or by a court order, or by voluntary placement by a parent, parents, or guardian.

(7) "Small family home" means any residential facility providing 24-hour care for six or fewer foster children who have mental disorders or developmental or physical disabilities and who require special care and supervision as a result of their disabilities.

(8) "Social rehabilitation facility" means any residential facility which provides social rehabilitation services for no longer than 18 months in a group setting to adults recovering from mental illness who temporarily need assistance, guidance, or counseling. Program components shall be subject to program standards pursuant to Section 5458.1.

(9) "Community treatment facility" means any residential facility which provides mental health treatment services to children in a group setting. Program components shall be subject to program standards developed by the State Department of Mental Health pursuant to Section 5405 of the Welfare and Institutions Code.

Nothing in this section shall be construed to prohibit or discourage placement of persons who have mental or physical disabilities into any category of community care facility that meets the needs of the individual placed, if the placement is consistent with the licensing regulations of the department.

(b) "Department" or "state department" means the State Department of Social Services.

(c) "Director" means the Director of Social Services.

SEC. 2. Section 1502 of the Health and Safety Code is amended to read:

1502. As used in this chapter:

(a) "Community care facility" means any facility, place, or building which is maintained and operated to provide nonmedical residential care, day treatment, adult day care, or homefinding agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, incompetent persons, and abused or neglected children, and includes the following:

(1) "Residential facility" means any family home, group care facility, or similar facility determined by the director, for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.

(2) "Adult day care facility" means any facility which provides nonmedical care to persons 18 years of age or older in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis.

(3) "Day treatment facility" means any facility which provides nonmedical care, counseling, educational or vocational support, or social rehabilitation services on less than a 24-hour basis to persons under 18 years of age who would otherwise be placed in foster care or who are returning to families from foster care. Program standards for these facilities shall be developed by the department, pursuant to Section 1530, in consultation with day treatment and foster care providers.

(4) "Homefinding agency" means any individual or organization engaged in finding homes or other places for placement of persons of any age for temporary or permanent care or adoption.

(5) "Foster family home" means any residential facility providing 24-hour care for six or fewer foster children which is owned, leased, or rented and is the residence of the foster parent or parents, including their family, in whose care the foster children have been placed. Such placement may be by a public or private child placement agency or by a court order, or by voluntary placement by a parent, parents, or guardian.

(6) "Small family home" means any residential facility providing 24-hour care for six or fewer foster children who have mental disorders or developmental or physical disabilities and who require special care and supervision as a result of their disabilities.

(7) "Social rehabilitation facility" means any residential facility which provides social rehabilitation services for no longer than 18 months in a group setting to adults recovering from mental illness who temporarily need assistance, guidance, or counseling. Program

components shall be subject to program standards pursuant to Section 5458.1.

(8) "Community treatment facility" means any residential facility which provides mental health treatment services to children in a group setting. Program components shall be subject to program standards developed by the State Department of Mental Health pursuant to Section 5405 of the Welfare and Institutions Code.

Nothing in this section shall be construed to prohibit or discourage placement of persons who have mental or physical disabilities into any category of community care facility that meets the needs of the individual placed, if the placement is consistent with the licensing regulations of the department.

(b) "Department" or "state department" means the State Department of Social Services.

(c) "Director" means the Director of Social Services.

SEC. 3. Section 1502 of the Health and Safety Code is amended to read:

1502. As used in this chapter:

(a) "Community care facility" means any facility, place, or building which is maintained and operated to provide nonmedical residential care, day treatment, adult day care, or homefinding agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, incompetent persons, and abused or neglected children, and includes the following:

(1) "Residential facility" means any family home, group care facility, or similar facility determined by the director, for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.

(2) "Residential care facility for the elderly" means a group housing arrangement chosen voluntarily by residents who are over 62 years of age and who are provided varying levels of supportive services or care, as agreed upon at the time of admission, based upon their varying needs.

(3) "Adult day care facility" means any facility which provides nonmedical care to persons 18 years of age or older in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis.

(4) "Day treatment facility" means any facility which provides nonmedical care, counseling, educational or vocational support, or social rehabilitation services on less than a 24-hour basis to persons under 18 years of age who would otherwise be placed in foster care or who are returning to families from foster care. Program standards for these facilities shall be developed by the department, pursuant to Section 1530, in consultation with day treatment and foster care providers.

(5) "Homefinding agency" means any individual or organization

engaged in finding homes or other places for placement of persons of any age for temporary or permanent care or adoption.

(6) "Foster family home" means any residential facility providing 24-hour care for six or fewer foster children which is owned, leased, or rented and is the residence of the foster parent or parents, including their family, in whose care the foster children have been placed. Such placement may be by a public or private child placement agency or by a court order, or by voluntary placement by a parent, parents, or guardian.

(7) "Small family home" means any residential facility providing 24-hour care for six or fewer foster children who have mental disorders or developmental or physical disabilities and who require special care and supervision as a result of their disabilities.

(8) "Social rehabilitation facility" means any residential facility which provides social rehabilitation services for no longer than 18 months in a group setting to adults recovering from mental illness who temporarily need assistance, guidance, or counseling. Program components shall be subject to program standards pursuant to Section 5458.1.

(9) "Social day care facility" means a community-based group program designed to meet the needs of functionally impaired adults through an individual plan of care in a structured comprehensive program that provides a variety of social and related support services in a protective setting on less than a 24-hour basis.

(10) "Community treatment facility" means any residential facility which provides mental health treatment services to children in a group setting. Program components shall be subject to program standards developed by the State Department of Mental Health pursuant to Section 5405 of the Welfare and Institutions Code.

Nothing in this section shall be construed to prohibit or discourage placement of persons who have mental or physical disabilities in to any category of community care facility that meets the needs of the individual placed, if the placement is consistent with the licensing regulations of the department.

(b) "Department" or "state department" means the State Department of Social Services.

(c) "Director" means the Director of Social Services.

SEC. 4. Section 1502 of the Health and Safety Code is amended to read:

1502. As used in this chapter:

(a) "Community care facility" means any facility, place, or building which is maintained and operated to provide nonmedical residential care, day treatment, adult day care, or homefinding agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, incompetent persons, and abused or neglected children, and includes the following:

(1) "Residential facility" means any family home, group care facility, or similar facility determined by the director, for 24-hour

nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.

(2) "Adult day care facility" means any facility which provides nonmedical care to persons 18 years of age or older in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis.

(3) "Day treatment facility" means any facility which provides nonmedical care, counseling, educational or vocational support, or social rehabilitation services on less than a 24-hour basis to persons under 18 years of age who would otherwise be placed in foster care or who are returning to families from foster care. Program standards for these facilities shall be developed by the department, pursuant to Section 1530, in consultation with day treatment and foster care providers.

(4) "Homefinding agency" means any individual or organization engaged in finding homes or other places for placement of persons of any age for temporary or permanent care or adoption.

(5) "Foster family home" means any residential facility providing 24-hour care for six or fewer foster children which is owned, leased, or rented and is the residence of the foster parent or parents, including their family, in whose care the foster children have been placed. Such placement may be by a public or private child placement agency or by a court order, or by voluntary placement by a parent, parents, or guardian.

(6) "Small family home" means any residential facility providing 24-hour care for six or fewer foster children who have mental disorders or developmental or physical disabilities and who require special care and supervision as a result of their disabilities.

(7) "Social rehabilitation facility" means any residential facility which provides social rehabilitation services for no longer than 18 months in a group setting to adults recovering from mental illness who temporarily need assistance, guidance, or counseling. Program components shall be subject to program standards pursuant to Section 5458.1.

(8) "Social day care facility" means a community-based group program designed to meet the needs of functionally impaired adults through an individual plan of care in a structured comprehensive program that provides a variety of social and related support services in a protective setting on less than a 24-hour basis.

(9) "Community treatment facility" means any residential facility which provides mental health treatment services to children in a group setting. Program components shall be subject to program standards developed by the State Department of Mental Health pursuant to Section 5405 of the Welfare and Institutions Code.

Nothing in this section shall be construed to prohibit or discourage placement of persons who have mental or physical disabilities into any category of community care facility that meets the needs of the

individual placed, if the placement is consistent with the licensing regulations of the department.

(b) "Department" or "state department" means the State Department of Social Services.

(c) "Director" means the Director of Social Services.

SEC. 5. Section 5405 is added to the Welfare and Institutions Code, to read:

5405. The State Department of Mental Health shall establish, by regulation, program standards for any facility licensed as a community treatment facility pursuant to subdivision (a) of Section 1502 of the Health and Safety Code. The public comment period on the adoption of the regulations required by this section shall commence no later than January 1, 1987.

SEC. 6. (a) Section 2 of this bill incorporates amendments to Section 1502 of the Health and Safety Code proposed by both this bill and SB 185. It shall only become operative if (1) both bills are enacted and become effective January 1, 1986, (2) each bill amends Section 1502 of the Health and Safety Code, and (3) AB 1926 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 185, in which case Sections 1, 3, and 4 of this bill shall not become operative.

(b) Section 3 of this bill incorporates amendments to Section 1502 of the Health and Safety Code proposed by both this bill and AB 1926. It shall only become operative if (1) both bills are enacted and become effective January 1, 1986, (2) each bill amends Section 1502 of the Health and Safety Code, (3) SB 185 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1926 in which case Sections 1, 2, and 4 of this bill shall not become operative.

(c) Section 4 of this bill incorporates amendments to Section 1502 of the Health and Safety Code proposed by this bill, SB 185, and AB 1926. It shall only become operative if (1) all three bills are enacted and become effective January 1, 1986, (2) all three bills amend Section 1502 of the Health and Safety Code, (3) this bill is enacted after SB 185 and AB 1926, in which case Sections 1, 2, and 3 of this bill shall not become operative.

SEC. 7. No appropriation is made by this act, pursuant to Section 6 of Article XIIIB of the California Constitution, because this act does not mandate a new program or higher level of service on local governments. It is recognized, however, that a local agency or local 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.

CHAPTER 1474

An act to amend Section 290.2 of, and to amend, repeal, and add Section 290 to, the Penal Code, and to amend Section 781 of the Welfare and Institutions Code, relating to crimes.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 290 of the Penal Code is amended to read:

290. (a) Any person who, since July 1, 1944, has been or is hereafter convicted in this state of the offense of assault with intent to commit rape or sodomy under Section 220, or of any offense defined in subdivisions (1), (2), (3), (4), and (6) of Section 261, or of any offense defined in Section 264.1, 266, 267, 285, 286, 288, 288a, 289, or 647a, subdivision (d) of Section 647, or subdivision 1 or 2 of Section 314, or of any offense involving lewd and lascivious conduct under Section 272; or any person who since that date has been or is hereafter convicted of the attempt to commit any of the above-mentioned offenses; or any person who since that date or at any time hereafter is discharged or paroled from a penal institution where he or she was confined because of the commission or attempt to commit one of the above-mentioned offenses; or any person who since that date or at any time hereafter is determined to be a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code; or any person who has been since that date or is hereafter convicted in any other state of any offense which, if committed or attempted in this state, would have been punishable as one or more of the above-mentioned offenses, shall, within 30 days after the effective date of this section or within 14 days of coming into any county or city, or city and county in which he or she temporarily resides or is domiciled for that length of time register with the chief of police of the city in which he or she is domiciled or the sheriff of the county if he or she is domiciled in an unincorporated area.

(b) Any person who, after August 1, 1950, is discharged or paroled from a jail, prison, school, road camp, or other institution where he or she was confined because of the commission or attempt to commit one of the above-mentioned offenses or is released from a state hospital to which he or she was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code shall, prior to discharge, parole, or release, be informed of his or her duty to register under this section by the official in charge of the place of confinement or hospital and the official shall require the person to read and sign such form as may be required by the Department of Justice, stating that the duty of the person to register

under this section has been explained to the person. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official in charge of the place of confinement or hospital shall give one copy of the form to the person, and shall send one copy to the Department of Justice and one copy to the appropriate law enforcement agency having jurisdiction over the place the person expects to reside upon discharge, parole, or release. If the conviction which makes the person subject to this section is a felony conviction, the official in charge shall, not later than 45 days prior to the scheduled release of the person, send one copy to the appropriate law enforcement agency having local jurisdiction where the person expects to reside upon discharge, parole, or release; one copy to the prosecuting agency which prosecuted the person; and one copy to the court where the person was prosecuted. All such forms shall, if the conviction which makes the person subject to this section is a felony conviction, be transmitted within such times as to be received by the local law enforcement agency, prosecuting agency, and court 30 days prior to the discharge, parole, or release of the person.

(c) Any person who, after August 1, 1950, is convicted in this state of the commission or attempt to commit any of the above-mentioned offenses and who is released on probation or discharged upon payment of a fine shall, prior to release or discharge, be informed of the duty to register under this section by the court in which the person has been convicted and the court shall require the person to read and sign such form as may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The court shall obtain the address where the person expects to reside upon release or discharge and shall report within three days the address to the Department of Justice. The court shall give one copy of the form to the person, and shall send one copy to the Department of Justice, and shall forward one copy to the appropriate law enforcement agency having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

(d) (1) Any person who, on or after January 1, 1986, is discharged or paroled from the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the following offenses shall be subject to registration under the procedures of this section: assault with intent to commit rape, sodomy, or oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220; or any offense defined in Section 288, 647a, paragraph (1) of subdivision (b) or subdivision (c) or (d) of Section 286, paragraph (1) of subdivision (b) or subdivision (c) or (d) of Section 288a, subdivision (2) of Section 261, or subdivision (a) of Section 289; or any offense under Section 264.1 involving rape in concert with force or fear of bodily

injury or penetration by any foreign object in concert with force or fear of bodily injury.

(2) Prior to discharge or parole from the Youth Authority, all persons subject to registration shall be informed of the duty to register under the procedures set forth in this section. Youth Authority officials shall transmit the required forms and information to the Department of Justice.

(3) The duty to register under this section for offenses adjudicated by a juvenile court shall terminate when a person reaches the age of 25.

(4) All records specifically relating to the registration in the custody of the Department of Justice, law enforcement agencies, and other agencies or public officials shall be destroyed when the person required to register attains the age of 25 or has his or her records sealed under the procedures set forth in Section 781 of the Welfare and Institutions Code, whichever event occurs first. This subdivision shall not be construed as requiring the destruction of other criminal offender or juvenile records relating to the case which are maintained by the Department of Justice, law enforcement agencies, the juvenile court, or other agencies and public officials unless ordered by a court under Section 781 of the Welfare and Institutions Code.

(e) The registration shall consist of (a) a statement in writing signed by the person, giving such information as may be required by the Department of Justice, and (b) the fingerprints and photograph of the person. Within three days thereafter, the registering law enforcement agency shall forward the statement, fingerprints, and photograph to the Department of Justice.

(f) If any person required to register pursuant to this section changes his or her residence address, the person shall inform, in writing within 10 days, the law enforcement agency with whom he or she last registered of the new address. The law enforcement agency shall, within three days after receipt of this information, forward it to the Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency having local jurisdiction of the new place of residence.

(g) Any person required to register under this section who violates any of its provisions is guilty of a misdemeanor. Any person who has been convicted of assault with intent to commit rape, oral copulation, or sodomy, or of any violation of Section 261, 264.1, 286, 288, 288a, or 289, and who is required to register under this section who willfully violates any of the provisions of this section is guilty of a misdemeanor and shall be sentenced to serve a term of not less than 90 days nor more than one year in the county jail. In no event does the court have the power to absolve a person who willfully violates this section from the obligation of spending at least 90 days of confinement in the county jail and of completing probation of at least one year.

(h) Whenever any person is released on parole or probation and

is required to register under this section but fails to do so within the time prescribed, the Board of Prison Terms, the Youth Authority, or the court, as the case may be, shall order the parole or probation of the person revoked.

(i) The statements, photographs, and fingerprints herein required shall not be open to inspection by the public or by any person other than a regularly employed peace or other law enforcement officer.

(j) In any case in which a person who would be required to register pursuant to this section for a felony conviction is to be temporarily sent outside the institution where he or she is confined on any assignment within a city or county including fire fighting, disaster control, or of whatever nature the assignment may be, the local law enforcement agency having jurisdiction over the place or places where the assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This provision does not apply to any person temporarily released under guard from the institution where he or she is confined.

(k) As used in this section, "mentally disordered sex offender" includes any person who has been determined to be a sexual psychopath or a mentally disordered sex offender under any provision which, on or before January 1, 1976, was contained in Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(*l*) Every person who, prior to January 1, 1985, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 30 to 14 days. This notice shall be provided in writing by the registering agency. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (f) if the person did register within 30 days.

(m) This section shall remain in effect only until January 1, 1988, and on that date is repealed.

SEC. 2. Section 290 is added to the Penal Code, to read:

290. (a) Any person who, since July 1, 1944, has been or is hereafter convicted in this state of the offense of assault with intent to commit rape or sodomy under subdivisions (1), (2), (3), (4), and (6) of Section 261, or of any offense defined in Section 264.1, 220, or of any offense defined in Section 266, 267, 285, 286, 288, 288a, 289, or 647a, subdivision (d) of Section 647, or subdivision 1 or 2 of Section 314, or of any offense involving lewd and lascivious conduct under Section 272; or any person who since that date has been or is hereafter convicted of the attempt to commit any of the above-mentioned offenses; or any person who since that date or at any time hereafter is discharged or paroled from a penal institution where he or she was confined because of the commission or attempt to commit one of the above-mentioned offenses; or any person who since that date or at any time hereafter is determined to be a mentally disordered sex offender under Article 1 (commencing with

Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code; or any person who has been since that date or is hereafter convicted in any other state of any offense which, if committed or attempted in this state, would have been punishable as one or more of the above-mentioned offenses, shall, within 30 days after the effective date of this section or within 14 days of coming into any county or city, or city and county in which he or she temporarily resides or is domiciled for that length of time register with the chief of police of the city in which he or she is domiciled or the sheriff of the county if he or she is domiciled in an unincorporated area.

(b) Any person who, after August 1, 1950, is discharged or paroled from a jail, prison, school, road camp, or other institution where he or she was confined because of the commission or attempt to commit one of the above-mentioned offenses or is released from a state hospital to which he or she was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code shall, prior to discharge, parole, or release, be informed of his or her duty to register under this section by the official in charge of the place of confinement or hospital and the official shall require the person to read and sign such form as may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to the person. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official in charge of the place of confinement or hospital shall give one copy of the form to the person, and shall send one copy to the Department of Justice and one copy to the appropriate law enforcement agency having jurisdiction over the place the person expects to reside upon discharge, parole, or release. If the conviction which makes the person subject to this section is a felony conviction, the official in charge shall, not later than 45 days prior to the scheduled release of the person, send one copy to the appropriate law enforcement agency having local jurisdiction where the person expects to reside upon discharge, parole, or release; one copy to the prosecuting agency which prosecuted the person; and one copy to the court where the person was prosecuted. All such forms shall, if the conviction which makes the person subject to this section is a felony conviction, be transmitted within such times as to be received by the local law enforcement agency, prosecuting agency, and court 30 days prior to the discharge, parole, or release of the person.

(c) Any person who, after August 1, 1950, is convicted in this state of the commission or attempt to commit any of the above-mentioned offenses and who is released on probation or discharged upon payment of a fine shall, prior to release or discharge, be informed of the duty to register under this section by the court in which the person has been convicted and the court shall require the person to read and sign such form as may be required by the Department of

Justice, stating that the duty of the person to register under this section has been explained to him or her. The court shall obtain the address where the person expects to reside upon release or discharge and shall report within three days the address to the Department of Justice. The court shall give one copy of the form to the person, and shall send one copy to the Department of Justice, and shall forward one copy to the appropriate law enforcement agency having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

(d) (1) Any person who, on or after January 1, 1986, is discharged or paroled from the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the following offenses shall be subject to registration under the procedures of this section: assault with intent to commit rape, sodomy, or oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220; or any offense defined in Section 288, paragraph (1) of subdivision (b) or subdivision (c) or (d) of Section 286, paragraph (1) of subdivision (b) or subdivision (c) or (d) of Section 288a, subdivision (2) of Section 261, or subdivision (a) of Section 289; or any offense under Section 264.1 involving rape in concert with force or fear of bodily injury or penetration by any foreign object in concert with force or fear of bodily injury.

(2) Prior to discharge or parole from the Youth Authority, all persons subject to registration shall be informed of the duty to register under the procedures set forth in this section. Youth Authority officials shall transmit the required forms and information to the Department of Justice.

(3) The duty to register under this section for offenses adjudicated by a juvenile court shall terminate when a person reaches the age of 25.

(4) All records specifically relating to the registration in the custody of the Department of Justice, law enforcement agencies, and other agencies or public officials shall be destroyed when the person required to register attains the age of 25 or has his or her records sealed under the procedures set forth in Section 781 of the Welfare and Institutions Code, whichever event occurs first. This subdivision shall not be construed as requiring the destruction of other criminal offender or juvenile records relating to the case which are maintained by the Department of Justice, law enforcement agencies, the juvenile court, or other agencies and public officials unless ordered by a court under Section 781 of the Welfare and Institutions Code.

(e) The registration shall consist of (a) a statement in writing signed by the person, giving such information as may be required by the Department of Justice, and (b) the fingerprints and photograph of the person. Within three days thereafter, the registering law enforcement agency shall forward the statement, fingerprints, and

photograph to the Department of Justice.

(f) If any person required to register pursuant to this section changes his or her residence address, the person shall inform, in writing within 10 days, the law enforcement agency with whom he or she last registered of the new address. The law enforcement agency shall, within three days after receipt of this information, forward it to the Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency having local jurisdiction of the new place of residence.

(g) Any person required to register under this section who violates any of its provisions is guilty of a misdemeanor. Any person who has been convicted of assault with intent to commit rape, oral copulation, or sodomy, or of any violation of Section 261, 264.1, 286, 288, 288a, or 289, and who is required to register under this section who willfully violates any of the provisions of this section is guilty of a misdemeanor and shall be sentenced to serve a term of not less than 90 days nor more than one year in the county jail. In no event does the court have the power to absolve a person who willfully violates this section from the obligation of spending at least 90 days of confinement in the county jail and of completing probation of at least one year.

(h) Whenever any person is released on parole or probation and is required to register under this section but fails to do so within the time prescribed, the Board of Prison Terms, the Youth Authority, or the court, as the case may be, shall order the parole or probation of the person revoked.

(i) The statements, photographs, and fingerprints herein required shall not be open to inspection by the public or by any person other than a regularly employed peace or other law enforcement officer.

(j) In any case in which a person who would be required to register pursuant to this section for a felony conviction is to be temporarily sent outside the institution where he or she is confined on any assignment within a city or county including fire fighting, disaster control, or of whatever nature the assignment may be, the local law enforcement agency having jurisdiction over the place or places where the assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This provision does not apply to any person temporarily released under guard from the institution where he or she is confined.

(k) As used in this section, "mentally disordered sex offender" includes any person who has been determined to be a sexual psychopath or a mentally disordered sex offender under any provision which, on or before January 1, 1976, was contained in Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(*l*) Every person who, prior to January 1, 1985, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 30 to 14

days. This notice shall be provided in writing by the registering agency. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (f) if the person did register within 30 days.

(m) This section shall be operative January 1, 1988.

SEC. 3. Section 290.2 of the Penal Code is amended to read:

290.2. (a) Any person required to register under Section 290 because of the commission of or the attempt to commit a felony offense specified in Section 290 who is discharged or paroled from a state prison or any institution under the jurisdiction of the Youth Authority where he or she was confined or is released from a state hospital to which he or she was committed as a mentally disordered sex offender under the provisions of Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, shall, prior to discharge, parole, or release, be required to provide two specimens of blood and a saliva sample to that institution.

The withdrawal of blood shall be performed in a medically approved manner. Only a physician, registered nurse, licensed vocational nurse, duly licensed clinical laboratory technologist, or clinical laboratory bioanalyst may withdraw the blood specimens for purposes of this section.

(b) The Department of Justice shall provide all blood specimen vials, mailing tubes, labels, and instructions for the collection of the blood specimens and saliva samples. The specimens and samples shall thereafter be forwarded to the Department of Justice criminalistics laboratory in Sacramento for analysis and categorizing into blood groupings.

(c) The blood grouping analysis information shall be filed with the offender's file maintained by the Sex Registration Unit of the Department of Justice, and shall not be included in the state summary criminal history information.

(d) The blood grouping analysis information shall be released only to law enforcement agencies and district attorneys' offices, at the request of the agency.

SEC. 4. Section 781 of the Welfare and Institutions Code is amended to read:

781. (a) In any case in which a petition has been filed with a juvenile court to commence proceedings to adjudge a person a ward of the court, in any case in which a person is cited to appear before a probation officer or is taken before a probation officer pursuant to Section 626, or in any case in which a minor is taken before any officer of a law enforcement agency, the person or the county probation officer may, five years or more after the jurisdiction of the juvenile court has terminated as to the person, or, in a case in which no petition is filed, five years or more after the person was cited to appear before a probation officer or was taken before a probation officer pursuant to Section 626 or was taken before any officer of a law enforcement agency, or, in any case, at any time after the person

has reached the age of 18 years, petition the court for sealing of the records, including records of arrest, relating to the person's case, in the custody of the juvenile court and probation officer and any other agencies, including law enforcement agencies, and public officials as the petitioner alleges, in his or her petition, to have custody of the records. The court shall notify the district attorney of the county and the county probation officer, if he or she is not the petitioner, and the district attorney or probation officer or any of their deputies or any other person having relevant evidence may testify at the hearing on the petition. If, after hearing, the court finds that since the termination of jurisdiction or action pursuant to Section 626, as the case may be, he or she has not been convicted of a felony or of any misdemeanor involving moral turpitude and that rehabilitation has been attained to the satisfaction of the court, it shall order all records, papers, and exhibits in the person's case in the custody of the juvenile court sealed, including the juvenile court record, minute book entries, and entries on dockets, and other records relating to the case in the custody of the other agencies and officials as are named in the order. In any case in which a ward of the juvenile court is subject to the registration requirements set forth in Section 290 of the Penal Code, a court, in ordering the sealing of the juvenile records of the person, also shall provide in the order that the person is relieved from the registration requirement and for the destruction of all registration information in the custody of the Department of Justice and other agencies and officials. Notwithstanding any other provision of law, the court shall not order the person's records sealed in any case in which the person has been found by the juvenile court to have committed an offense listed in subdivision (b) of Section 707 until at least three years have elapsed since commission of the offense listed in subdivision (b) of Section 707. Once the court has ordered the person's records sealed, the proceedings in the case shall be deemed never to have occurred, and the person may properly reply accordingly to any inquiry about the events, the records of which are ordered sealed. The court shall send a copy of the order to each agency and official named therein, directing the agency to seal its records and stating the date thereafter to destroy the sealed records. Each such agency and official shall seal the records in its custody as directed by the order, shall advise the court of its compliance, and thereupon shall seal the copy of the court's order for sealing of records that it, he, or she received. The person who is the subject of records sealed pursuant to this section may petition the superior court to permit inspection of the records by persons named in the petition, and the superior court may so order. Otherwise, except as provided in subdivision (b), the records shall not be open to inspection.

(b) In any action or proceeding based upon defamation, a court, upon a showing of good cause, may order any records sealed under this section to be opened and admitted into evidence. The records shall be confidential and shall be available for inspection only by the

court, jury, parties, counsel for the parties, and any other person who is authorized by the court to inspect them. Upon the judgment in the action or proceeding becoming final, the court shall order the records sealed.

(c) (1) Subdivision (a) does not apply to Department of Motor Vehicle records of any convictions for offenses under the Vehicle Code or any local ordinance relating to the operation, stopping and standing, or parking of a vehicle where the record of any such conviction would be a public record under Section 1808 of the Vehicle Code. However, if a court orders a case record containing any such conviction to be sealed under this section, and if the Department of Motor Vehicles maintains a public record of such a conviction, the court shall notify the Department of Motor Vehicles of the sealing and the department shall advise the court of its receipt of the notice.

Notwithstanding any other provision of law, subsequent to the notification, the Department of Motor Vehicles shall allow access to its record of convictions only to the subject of the record and to insurers which have been granted requester code numbers by the department. Any insurer to which such a record of conviction is disclosed, when such a conviction record has otherwise been sealed under this section, shall be given notice of the sealing when the record is disclosed to the insurer. The insurer may use the information contained in the record for purposes of determining eligibility for insurance and insurance rates for the subject of the record, and the information shall not be used for any other purpose nor shall it be disclosed by an insurer to any person or party not having access to the record.

(2) This subdivision shall not be construed as preventing the sealing of any record which is maintained by any agency or party other than the Department of Motor Vehicles.

(3) This subdivision shall not be construed as affecting the procedures or authority of the Department of Motor Vehicles for purging department records.

(d) Unless for good cause the court determines that the juvenile court record shall be retained, the court shall order the destruction of a person's juvenile court records that were sealed pursuant to this section as follows: five years after the record was ordered sealed, if the person who is the subject of the record was alleged or adjudged to be a person described by Section 601; or when the person who is the subject of the record reaches the age of 38 years, if the person was alleged or adjudged to be a person described by Section 602. Any other agency in possession of sealed records shall destroy its records in accordance with this section.

SEC. 5. In the event that funds are appropriated therefor in the Budget Act of 1986, the Department of Justice shall conduct a study on the effectiveness of statutory requirements for the registration of sex offenders and report thereon to the Legislature by January 1, 1991.

SEC. 6. The Department of Justice shall conduct a study of the effectiveness of, and the justification for, the inclusion of violations of Section 647a of the Penal Code in subdivision (d) of Section 290 of the Penal Code, and shall report thereon to the Legislature by January 1, 1987.

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.

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.

CHAPTER 1475

An act to add Section 23206.5 to the Vehicle Code, relating to driving offenses.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 23206.5 is added to the Vehicle Code, to read:

23206.5. (a) If any person is convicted of a violation of Section 23152 or 23153 and the offense was a second or subsequent offense punishable under Section 23165, 23170, 23175, or 23185, the court shall require that any term of imprisonment that is imposed by the court shall include at least one period of not less than 48 consecutive hours of imprisonment, or in the alternative and notwithstanding Section 4024.2 of the Penal Code, that the person shall serve not less than 10 days of community service.

(b) Notwithstanding any other provision of law, except Section 2900.5 of the Penal Code, unless the court expressly finds in the circumstances that the punishment inflicted would be cruel or unusual punishment prohibited by Section 17 of Article I of the California Constitution, no court or person to whom a person is remanded for execution of sentence shall release, or permit the release of, a person from the requirements of subdivision (a), including, but not limited to, any work-release program, weekend service of sentence program, diversion or treatment program, or

otherwise.

(c) For the purposes of this section, "imprisonment" means confinement in a jail, in a minimum security facility, or in an inpatient rehabilitation facility, as provided in Part 1309 (commencing with Section 1309.1) of Title 23 of the Code of Federal Regulations.

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 1476

An act to amend Section 12640.11 of the Insurance Code, relating to insurance.

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

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

SECTION 1. Section 12640.11 of the Insurance Code is amended to read:

12640.11. (a) Nothing in this chapter (commencing with Section 12640.01) shall be construed as limiting the right of any mortgage guaranty insurer to impose reasonable requirements upon the lender with regard to the terms of any note or bond or other evidence of indebtedness secured by a mortgage or deed of trust, such as requiring a stipulated down payment by the borrower.

(b) All statements and descriptions in any application for mortgage guaranty insurance or in negotiations for that insurance, and all documents relating thereto, submitted to the mortgage guaranty insurer shall be deemed to be representations and not warranties. Furthermore, misrepresentations and incorrect or incomplete statements in any such application, negotiations, and all documents relating thereto shall not prevent a recovery under a policy of mortgage guaranty insurance unless:

(1) Fraudulent; or

(2) Material either to the acceptance of the risk or to the hazard assumed by the insurer; or

(3) The insurer in good faith would either not have issued the mortgage guaranty insurance policy or extended coverage thereunder, or would not have issued the policy or extended coverage in as large an amount or at the premium rate as applied for or would not have provided coverage with respect to the hazard resulting in the loss if the true facts had been known to the insurer

as required by the application for the policy or for the extension of coverage or otherwise.

CHAPTER 1477

An act to amend Sections 9902, 9908.5, 9909.5, 9909.6, 9910, 9911, 9912, 9946.1, 9958.6, 9978, 9984, 9984.1, 9988.2, 9989.4, and 9995 of, to add Section 9963 to, and to repeal Section 9995.1 of, the Business and Professions Code, relating to employment agencies, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 9902 of the Business and Professions Code is amended to read:

9902. As used in this chapter, "employment agency" or "agency" means any of the following:

(a) The business of conducting, in any capacity, an intelligence office, employment agency, registry, or any agency, business, or office which procures, offers, promises, or attempts to procure employment or engagements for others or employees for employers, or for the registration of persons seeking to procure or retain employment or engagement, or for giving information as to where and from whom this help, employment, or engagement may be procured, or for providing employment or engagements where a fee or other valuable consideration is exacted, or attempted to be collected, directly or indirectly, for these services, regardless of where the business is conducted.

(b) Any person, service, bureau, organization, club, résumé service, or employment counseling service, which by advertisement or otherwise offers, as one of its main objects or purposes, to procure employment for any person who will pay for its services, or that collects dues, tuition, or membership or registration fees of any sort, where the main object of the person paying the same is to secure employment.

(c) Any person who acts as a labor contractor.

(1) A labor contractor is any person, who, for a fee or other compensation, employs an individual to render personal services to, for, or under the direction of, a third person.

(2) "Bona fide employees" or "employees," when used with reference to the employees of a labor contractor, refers to the employees rendering services to the labor contractor and not to the individuals employed by the labor contractor to render personal services to, for, or under the direction of, a third person.

(3) A central hiring establishment, intelligence office, registry,

agency, or place maintained without cost to applicants for employment by groups of employers or groups of employers and employees, or a person licensed under Chapter 9 (commencing with Section 7000) of Division 3, does not constitute a labor contractor within the meaning of this chapter.

(4) A person employing individuals to render personal services to, for, or under the direction of, a third person is not a labor contractor within the meaning of this chapter if the person employing the individuals, in addition to wages or salaries, pays federal social security taxes, state and federal unemployment insurance, carries workers' compensation insurance as required by state law, and sustains responsibility for the acts of his or her employees while rendering services to, for, or under the direction of, a third person, and has no applicant-paid liquidated damage clause. The person employing individuals to render personal services shall not send the employees to any place where a strike, lockout, or labor dispute exists.

(d) Any employment counseling service, as defined in Section 9909.5.

SEC. 2. Section 9908.5 of the Business and Professions Code is amended to read:

9908.5. As used in this chapter, "chief" means the Chief of the Bureau of Personnel Services.

SEC. 2.5. Section 9909.5 of the Business and Professions Code is amended to read:

9909.5. As used in this chapter, an "employment counseling service" means any business that procures or implies the procurement of employment or employment assistance or advertises in any manner the following services for a fee: career counseling, vocational guidance, aptitude testing, executive consulting, personnel consulting, career management, evaluation, or planning, the development of résumés and other promotional materials relating to the preparation for employment, or referral services relating to employment or employment qualifications.

SEC. 3. Section 9909.6 of the Business and Professions Code is amended to read:

9909.6. An "employment counseling service" for the purposes of this chapter shall be deemed to be an "employment agency." No person shall engage in the activities of an "employment counseling service" unless the person is licensed in accordance with the provisions of this chapter. However, "employment counseling services" does not include:

(a) Businesses which are retained by, act solely on behalf of, and are compensated solely by, prior or current employers, which do not require any "jobseeker" to sign a contract, and do not in any way hold any "jobseeker" liable for fees.

(b) Any provider of vocational rehabilitation in which the counseling services are paid for by insurance benefits, irrespective of source of the insurance, or where the counseling is provided as a

result of marital dissolution or separation proceedings to prepare one of the spouses for reentry into the job market and where the fees are paid by some party other than the person receiving the counseling services.

The exemption provided in this subdivision does not apply to any vocational rehabilitation counselor who receives any payments directly from the individual consumer receiving the counseling.

(c) Any person or business which engages solely in the preparation of résumés and cover letters, provided that the résumé writing service does not advertise or hold itself out as offering other job seeking or placement services and does not charge more than three hundred dollars ($300) for any résumé, cover letter, or combination of both to any single consumer in any individual transaction.

(d) Any public educational institution.

(e) Any private educational institution established solely for educational purposes which, as a part of its curriculum, offers employment counseling to its student body and which institution conforms to the requirements of Section 94310 of the Education Code.

(f) A psychologist or psychological corporation licensed pursuant to Chapter 6.6 (commencing with Section 2900) of Division 2 providing psychological assessment, career or occupational counseling, or consultation and related professional services within their scope of practice.

(g) Educational psychologists licensed pursuant to Chapter 13 (commencing with Section 4986) of Division 2 providing counseling services within their scope of practice.

SEC. 4. Section 9910 of the Business and Professions Code is amended to read:

9910. Nothing in this chapter shall apply to any nonprofit corporation, organized for the purpose of economic adjustment, civic betterment, and the giving of vocational guidance and placement to its members, or others, including employment counseling services, when all of the following conditions exist:

(a) None of the directors, officers or employees thereof receive any profit other than a nominal salary for services performed for the organization or corporation.

(b) No fee is charged for those services, though a voluntary contribution may be requested.

(c) Membership dues or fees charged are used solely for maintenance of the organization or corporation.

SEC. 5. Section 9911 of the Business and Professions Code is amended to read:

9911. Nothing in this chapter shall apply to a nonprofit corporation which has been formed in good faith for the promotion and advancement of the general professional interests of its members and which maintains a placement service principally engaged in securing employment for such members with the state

or any county, city, district or other public agency under contracts providing employment for one year or longer, or any nonprofit corporation exempted by Section 9910.

SEC. 6. Section 9912 of the Business and Professions Code is amended to read:

9912. Any nonprofit corporation shall, in order to be exempt under Sections 9910 and 9911, file with the bureau a copy of its bylaws and constitution, together with a sworn statement setting forth all of the following:

(a) The place of business.

(b) The names and addresses of officers, directors and employees and the salaries they receive.

(c) The various benefits furnished to members.

A new sworn statement containing all of the information set forth in subdivisions (a), (b), and (c) shall be filed with the bureau whenever there is a change in this information.

SEC. 7. Section 9946.1 of the Business and Professions Code is amended to read:

9946.1. All applicants for an initial license as specified in subdivision (b) of Section 9997.1 to operate a nurses' registry applying for the license on or after January 1, 1985, shall successfully complete an examination prescribed by the bureau prior to receiving a certificate of licensure.

SEC. 8. Section 9958.6 of the Business and Professions Code is amended to read:

9958.6. Each nurses' registry shall submit to the bureau all forms of contract to be utilized by such nurses' registry in entering into written contracts with private duty nurses for the use of the services of such nurses' registry, and shall secure approval as to form from the bureau. Such approval shall not be withheld as to any proposed form of contract, when at least the basics of all of the eight foregoing points are included in the contract. The following statement shall be printed on the face of the contract in prominent type: "This nurses' registry is licensed by the Bureau of Personnel Services."

SEC. 9. Section 9963 is added to the Business and Professions Code, to read:

9963. No bond shall be required of any employment counseling service if that service does not receive any prepayment for services and provides services strictly on an hourly basis, with no financial obligation required of the consumer beyond the hourly fee for services rendered.

SEC. 10. Section 9978 of the Business and Professions Code is amended to read:

9978. No employment agency shall publish or cause to be published any false, fraudulent, or misleading information, representation, notice, or advertisements. All advertisements of an employment agency shall contain the licensed name and address of the employment agency. Every employment agency, except a licensed nurses' registry and an employment counseling service,

shall use, as part of its licensed name, either the designation "agency" or "personnel service." No employment agency shall give any false information or make any false promises or representations concerning an engagement or employment to any applicant who registers or applies for an engagement or employment or help.

SEC. 11. Section 9984 of the Business and Professions Code is amended to read:

9984. (a) Every employment agency shall give to every applicant for employment from whom a fee or deposit is to be received a contract or receipt, in which is stated all of the following:

(1) The name, address, and telephone number of the employment agency.

(2) The name and address of the person giving the order for help, the date and consecutive number of the receipt of the order by the agency, and its manner of transmission.

(3) The date and consecutive number of issuing the contract.

(4) The name of the applicant, the name and address of the person to whom the applicant is sent for employment, and the address where the applicant is to report for employment.

(5) The amount of the fee to be charged and to be collected from the applicant and the amount of the fee paid or advanced by the prospective employer and by whom paid or advanced.

(6) The kind of work or employment.

(7) The daily hours of work; the wages or salary, including any consideration or privilege.

(8) If any labor trouble exists at the place of employment, that fact shall be stated in the contract.

(9) Any other term, condition, or understanding agreed upon between the agency and the applicant.

(b) There shall be printed on the face of all contracts in type no smaller than 10-point bold the following: "This agency is licensed by the Bureau of Personnel Services of the State of California, (current address of the bureau). Inquiries concerning your contract may be sent to this address." At the bottom of the contract there shall appear a notice to the effect that the contract is the property of the applicant and shall not be taken from him or her.

(c) The employment agency shall in the contract undertake to repay the applicant the fee in the event the applicant fails to accept employment.

(d) All contracts or receipts shall be made and numbered consecutively in original and duplicate, both to be signed by the applicant and the person acting for the employment agency. The original shall be given to the applicant and the duplicate shall be kept on file at the agency.

(e) This section does not apply to employer-retained agencies, nurses' registries, prepaid computer agencies, and job listing services, or employment counseling services.

SEC. 12. Section 9984.1 of the Business and Professions Code is amended to read:

9984.1. (a) Every contract for employment counseling services shall be in writing and shall be subject to this section.

A copy of the contract shall be given to the customer at the time the customer signs the contract and before the employment counseling service accepts any fee or deposit. The contract shall contain all of the following:

(1) The name, address, and telephone number of the employment counseling service.

(2) The name and address of the person signing the contract and the person to whom the employment counseling services are to be provided.

(3) A description of the services to be provided; a statement when those services are to be provided; the duration of the contract; and refund provisions as appropriate, to be applicable if the described services are not provided according to the contract.

(4) The amount of the fee to be charged to or collected from the person receiving the services or any other person, and the date or dates when that fee is required to be paid.

(5) The following statement, in type no smaller than 10-point bold-faced type:

"No verbal or written promise or guarantee of any job or employment is made or implied under the terms of this contract."

(6) The following statement, in type no smaller than 10-point bold-faced type:

"This agency is licensed by the Bureau of Personnel Services of the State of California, (current address of the bureau). Inquiries concerning your contract may be sent to this address."

(7) The following statement, in type no smaller than 10-point bold-faced type:

YOUR RIGHT TO CANCEL

"You may cancel this contract for employment counseling services, without any penalty or obligation, if notice of cancellation is given, in writing, within three business days after you have signed this contract.

"To cancel this contract, just mail or deliver a signed and dated copy of the following cancellation notice or any other written notice of cancellation, or send a telegram containing a notice of cancellation, to (name of employment counseling service) at (address of its place of business), not later than midnight of the third business day after you signed this contract."

CANCELLATION NOTICE

I hereby cancel this contract.
Dated: _____

_____
Customer's Signature"

(8) The bureau may adopt further regulations specifying the contents and form of contracts subject to this section.

(b) Paragraph (7) of subdivision (a) shall not apply where time is of the essence and the employment counseling services must be performed at the request and for the convenience of the customer within three days of the date the contract is entered into, provided that the customer furnishes the employment counseling service with a separate dated and signed personal statement in the customer's own handwriting, describing the situation requiring immediate services and expressly acknowledging and waiving the right to cancel the contract within three business days.

(c) The requirements of this section shall not apply to any employment counseling service if that service receives no prepayment for services and provides services strictly on an hourly basis, with no financial obligation required of the consumer beyond the hourly fee for services rendered.

SEC. 13. Section 9988.2 of the Business and Professions Code is amended to read:

9988.2. All employment provided by any employment agency to any applicant from whom a fee is to be received shall be considered permanent only if lasting beyond 90 days. This section shall not apply to any nurses' registry.

SEC. 14. Section 9989.4 of the Business and Professions Code is amended to read:

9989.4. (a) Prior to the acceptance of a fee from a jobseeker, a licensee shall provide the jobseeker with a written contract which shall include at least the following:

(1) The name of the licensee and the addresses and telephone numbers of the principal office or location of the licensee providing the listing to the jobseeker.

(2) Acknowledgement of receipt of the fee, including the amount.

(3) A description of the service to be performed by the licensee, including significant conditions, restrictions, and limitations where applicable.

(4) The jobseeker's specifications for the employment opportunity, including, but not limited to, the following:

(A) Type of job.

(B) Interests of jobseeker.

(C) Qualifications of jobseeker.

(D) Salary, benefits, and other conditions of employment.

(E) Location of job.

(5) The contract expiration date, which shall not be later than 90 days from the date of execution of the contract.

(6) A clause setting forth the right to a full refund of the fee paid in advance as provided in Section 9989.5.

(7) The signature of the licensee or of the designated agent or employee acting on behalf of the licensee.

(8) There shall be printed on the face of the contract in type no smaller than 10-point bold the following: "This agency is licensed by

the Bureau of Personnel Services of the State of California, (current address of the bureau). Inquiries concerning your contract may be sent to this address." At the bottom of the contract there shall appear a notice to the effect that the contract is the property of the applicant and shall not be taken from the applicant.

(b) Every contract or receipt shall be made and numbered consecutively in original and duplicate, both to be signed by the applicant and the person acting for the employment agency. The original shall be given to the applicant and the duplicate shall be kept on file at the agency.

(c) The form of contract proposed to be used by a licensee to effect compliance with this section shall be filed with the bureau prior to use. Any modification of a form previously filed with the bureau, including a change in the name or business address of the licensee, shall also be filed prior to use.

SEC. 15. Section 9995 of the Business and Professions Code is amended to read:

9995. The bureau shall receive and account for all fees and revenues derived from the operation of this chapter and, at the end of each month, shall report such fees and revenues to the State Controller and shall pay it to the State Treasurer, who shall keep the fees and revenues in a separate fund known as the Bureau of Personnel Services Fund. The fees and revenues contained in this fund are appropriated, without regard to fiscal years, for carrying out the provisions of this chapter. The Bureau of Personnel Services Fund is the successor fund and succeeds to all moneys previously on deposit or owing to the Bureau of Employment Agencies Fund.

SEC. 16. Section 9995.1 of the Business and Professions Code is repealed.

SEC. 17. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

To address inconsistencies present in existing law and to ensure the uniform and equitable administration and enforcement of the Employment Agency Act, it is necessary that this act go into immediate effect.

CHAPTER 1478

An act to add Section 12002.1 to the Fish and Game Code, relating to game.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 12002.1 is added to the Fish and Game Code, to read:

12002.1. Notwithstanding Section 12002, the punishment for taking a game mammal or bird for which a hunting license issued pursuant to Section 3031 is required or a license tag or license stamp is required, without having in one's possession the required, valid license, or without having in one's possession any required license tag or license stamp, or when the taking of that game mammal or bird is prohibited by allowable season, limit, time, or area, is punishable by a fine of not more than two thousand dollars ($2,000), or imprisonment in the county jail for not more than one year, or both that fine and imprisonment, or by any greater punishment prescribed by this code.

Any charge under this section may be dismissed when the person charged produces in court a license, license tag, or license stamp, as required, issued to the person and valid at the time of the person's arrest and if the taking was otherwise lawful with respect to season, limit, time, and area.

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 1479

An act to amend Sections 1197.5, 6309, 6311, and 6312 of, to add Section 98.75 to, and to repeal and add Section 98.7 of, the Labor Code, relating to employment.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 98.7 of the Labor Code is repealed.

SEC. 2. Section 98.7 is added to the Labor Code, to read:

98.7. (a) Any person who believes that he or she has been discharged or otherwise discriminated against in violation of any provision of this code under the jurisdiction of the Labor Commissioner may file a complaint with the division within 30 days after the occurrence of the violation. The 30-day period may be extended for good cause. The complaint shall be investigated by a discrimination complaint investigator in accordance with this section. The Labor Commissioner shall establish procedures for the

investigation of discrimination complaints. A summary of the procedures shall be provided to each complainant and respondent at the time of initial contact. The Labor Commissioner shall inform complainants charging a violation of Section 6310 or 6311, at the time of initial contact, of his or her right to file a separate, concurrent complaint with the United States Department of Labor within 30 days after the occurrence of the violation.

(b) Each complaint of unlawful discharge or discrimination shall be assigned to a discrimination complaint investigator who shall prepare and submit a report to the Labor Commissioner based on an investigation of the complaint. The Labor Commissioner may designate the chief deputy or assistant Labor Commissioner or the chief counsel to receive and review the reports. The investigation shall include, where appropriate, interviews with the complainant, respondent, and any witnesses who may have information concerning the alleged violation, and a review of any documents which may be relevant to the disposition of the complaint. The identity of witnesses shall remain confidential unless the identification of the witness becomes necessary to proceed with the investigation or to prosecute an action to enforce a determination. The investigation report submitted to the Labor Commissioner or designee shall include the statements and documents obtained in the investigation, and the findings of the investigator concerning whether a violation occurred. The Labor Commissioner may hold an investigative hearing whenever the Labor Commissioner determines, after review of the investigation report, that a hearing is necessary to fully establish the facts. In the hearing the investigation report shall be made a part of the record and the complainant and respondent shall have the opportunity to present further evidence. The Labor Commissioner shall issue, serve, and enforce any necessary subpoenas.

(c) If the Labor Commissioner determines a violation has occurred, he or she shall notify the complainant and respondent and direct the respondent to cease and desist from the violation and take such action as is deemed necessary to remedy the violation, including, where appropriate, rehiring or reinstatement, reimbursement of lost wages and interest thereon, payment of reasonable attorney's fees associated with any hearing held by the Labor Commissioner in investigating the complaint, and the posting of notices to employees. If the respondent does not comply with the order within 10 working days following notification of the Labor Commissioner's determination, the Labor Commissioner shall bring an action promptly in an appropriate court against the respondent. If the Labor Commissioner fails to bring an action in court promptly, the complainant may bring an action against the Labor Commissioner in any appropriate court for a writ of mandate to compel the Labor Commissioner to bring an action in court against the respondent. If the complainant prevails in his or her action for a writ, the court shall award the complainant court costs and

reasonable attorney's fees, notwithstanding any other provision of law. Regardless of any delay in bringing an action in court, the Labor Commissioner shall not be divested of jurisdiction. In any such action, the court may permit the claimant to intervene as a party plaintiff to the action and shall have jurisdiction, for cause shown, to restrain the violation and to order all appropriate relief. Appropriate relief includes, but is not limited to, rehiring or reinstatement of the complainant, reimbursement of lost wages and interest thereon, and such other compensation or equitable relief as is appropriate under the circumstances of the case. The Labor Commissioner shall petition the court for appropriate temporary relief or restraining order unless he or she determines good cause exists for not doing so.

(d) If the Labor Commissioner determines no violation has occurred, he or she shall notify the complainant and respondent and shall dismiss the complaint. The Labor Commissioner may direct the complainant to pay reasonable attorney's fees associated with any hearing held by the Labor Commissioner if the Labor Commissioner finds the complaint was frivolous, unreasonable, groundless, and was brought in bad faith. The complainant may, after notification of the Labor Commissioner's determination to dismiss a complaint, bring an action in an appropriate court, which shall have jurisdiction to determine whether a violation occurred, and if so, to restrain the violation and order all appropriate relief to remedy the violation. Appropriate relief includes, but is not limited to, rehiring or reinstatement of the complainant, reimbursement of lost wages and interest thereon, and such other compensation or equitable relief as is appropriate under the circumstances of the case. When dismissing a complaint, the Labor Commissioner shall advise the complainant of his or her right to bring an action in an appropriate court if he or she disagrees with the determination of the Labor Commissioner, and in the case of an alleged violation of Section 6310 or 6311, to file a complaint against the state program with the United States Department of Labor.

(e) The Labor Commissioner shall notify the complainant and respondent of his or her determination under subdivision (c) or (d), not later than 60 days after the filing of the complaint. Determinations by the Labor Commissioner under subdivision (c) or (d) may be appealed by the complainant or respondent to the Director of Industrial Relations within 10 days following notification of the determination. The appeal shall set forth specifically and in full detail the grounds upon which the appealing party considers the Labor Commissioner's determination to be unjust or unlawful, and every issue to be considered by the director. The director may consider any issue relating to the initial determination and may modify, affirm, or reverse the Labor Commissioner's determination. The director's determination shall be the determination of the Labor Commissioner. The director shall notify the complainant and respondent of his or her determination within 10 days of receipt of the appeal.

(f) The rights and remedies provided by this section do not preclude an employee from pursuing any other rights and remedies under any other provisions of law.

SEC. 3. Section 98.75 is added to the Labor Code, to follow Section 98.7, to read:

98.75. The Labor Commissioner shall submit a report to the Legislature by February 15, 1987, and annually thereafter by February 15, providing the following information with respect to discrimination complaints for the previous calendar year:

(a) The number of complaints filed pursuant to Section 98.7 or 1197.5, grouped according to the section of the Labor Code allegedly violated.

(b) The number of determinations issued, the number of investigative hearings held, the number of complaints dismissed, and the number of complaints found to be valid, grouped by the year in which the complaints were filed.

(c) The number of cases in which the respondent complied with the Labor Commissioner's order to remedy unlawful discrimination, the number of these orders with which respondents failed to comply, the number of court actions brought by the Labor Commissioner to remedy unlawful discrimination, and the results of those court actions. If the Labor Commissioner did not bring an action in court within 10 days against a respondent who failed to comply with his or her order, the report shall specify the reasons for not bringing action in court.

SEC. 4. Section 1197.5 of the Labor Code is amended to read:

1197.5. (a) No employer shall pay any individual in the employer's employ at wage rates less than the rates paid to employees of the opposite sex in the same establishment for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions, except where the payment is made pursuant to a seniority system, a merit system, a system which measures earnings by quantity or quality of production, or a differential based on any bona fide factor other than sex.

(b) Any employer who violates subdivision (a) is liable to the employee affected in the amount of the wages, and interest thereon, of which the employee is deprived by reason of the violation, and in an additional equal amount as liquidated damages.

(c) The provisions of this section shall be administered and enforced by the Division of Labor Standards Enforcement. If the division finds that an employer has violated this section, it may supervise the payment of wages and interest found to be due and unpaid to employees under subdivision (a). Acceptance of payment in full made by an employer and approved by the division shall constitute a waiver on the part of the employee of the employee's cause of action under subdivision (g).

(d) Every employer shall maintain records of the wages and wage rates, job classifications, and other terms and conditions of

employment of the persons employed by the employer. All of the records shall be kept on file for a period of two years.

(e) Any employee may file a complaint with the division that the wages paid are less than the wages to which the employee is entitled under subdivision (a). These complaints shall be investigated as provided in subdivision (b) of Section 98.7. The name of any employee who submits to the division a complaint regarding an alleged violation of subdivision (a) shall be kept confidential by the division until validity of the complaint is established by the division, or unless the confidentiality must be abridged by the division in order to investigate the complaint. The name of the complaining employee shall remain confidential if the complaint is withdrawn before the confidentiality is abridged by the division. The division shall take all proceedings necessary to enforce the payment of any sums found to be due and unpaid to these employees.

(f) The department or division may commence and prosecute, unless otherwise requested by the employee or affected group of employees, a civil action on behalf of the employee and on behalf of a similarly affected group of employees to recover unpaid wages and liquidated damages under subdivision (a), and in addition shall be entitled to recover costs of suit. The consent of any employee to the bringing of any action shall constitute a waiver on the part of the employee of the employee's cause of action under subdivision (g) unless the action is dismissed without prejudice by the department or the division, except that the employee may intervene in the suit or may initiate independent action if the suit has not been determined within 180 days from the date of the filing of the complaint.

(g) Any employee receiving less than the wage to which the employee is entitled under this section may recover in a civil action the balance of the wages, including interest thereon, and an equal amount as liquidated damages, together with the costs of the suit and reasonable attorney's fees, notwithstanding any agreement to work for a lesser wage.

(h) A civil action to recover wages under subdivision (a) may be commenced no later than two years after the cause of action occurs, except that a cause of action arising out of a willful violation may be commenced no later than three years after the cause of action occurs.

(i) If an employee recovers amounts due the employee under subdivision (b), and also files a complaint or brings an action under subdivision (d) of Section 206 of Title 29 of the United States Code which results in an additional recovery under federal law for the same violation, the employee shall return to the employer the amounts recovered under subdivision (b), or the amounts recovered under federal law, whichever is less.

SEC. 5. Section 6309 of the Labor Code is amended to read:

6309. Whenever the division learns or has reason to believe that any employment or place of employment is not safe or is injurious to the welfare of any employee, it may, of its own motion, or upon

complaint, summarily investigate the same, with or without notice or hearings. However, when the division secures a complaint from an employee, the employee's representative, or an employer of an employee directly involved in an unsafe place of employment, that his or her employment or place of employment is not safe, it shall, with or without notice or hearing, summarily investigate the same as soon as possible, but not later than three working days after receipt of a complaint charging a serious violation, and not later than 14 calendar days after receipt of a complaint charging a nonserious violation. For purposes of this section, a complaint shall be deemed to allege a serious violation if the division determines that the complaint charges that there is a substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations, or processes which have been adopted or are in use in a place of employment. All other complaints shall be deemed to allege nonserious violations. The division may enter and serve any necessary order relative thereto. The division is not required to respond to any complaint within this period where, from the facts stated in the complaint, it determines that the complaint is intended to willfully harass an employer or is without any reasonable basis.

The division shall keep complete and accurate records of any complaints, whether verbal or written, and shall inform the complainant, whenever his or her identity is known, of any action taken by the division in regard to the subject matter of the complaint, and the reasons for the action. The records of the division shall include the dates on which any action was taken on the complaint, or the reasons for not taking any action on the complaint. The division shall, pursuant to authorized regulations, conduct an informal review of any refusal by a representative of the division to issue a citation with respect to any alleged violation. The division shall furnish the employee or the representative of employees requesting the review a written statement of the reasons for the division's final disposition of the case.

The name of any person who submits to the division a complaint regarding the unsafeness of an employment or place of employment shall be kept confidential by the division unless that person requests otherwise.

The requirements of this section shall not relieve the division of its requirement to inspect and assure that all places of employment are safe and healthful for employees. The division shall maintain the capability to receive and act upon complaints at all times.

SEC. 6. Section 6311 of the Labor Code is amended to read:

6311. No employee shall be laid off or discharged for refusing to perform work in the performance of which this code, including Section 6400, any occupational safety or health standard or any safety order of the division or standards board will be violated, where the violation would create a real and apparent hazard to the employee or his or her fellow employees. Any employee who is laid off or

discharged in violation of this section or is otherwise not paid because he or she refused to perform work in the performance of which this code, any occupational safety or health standard or any safety order of the division or standards board will be violated and where the violation would create a real and apparent hazard to the employee or his or her fellow employees shall have a right of action for wages for the time the employee is without work as a result of the layoff or discharge.

SEC. 7. Section 6312 of the Labor Code is amended to read:

6312. Any employee who believes that he or she has been discharged or otherwise discriminated against by any person in violation of Section 6310 or 6311 may file a complaint with the Labor Commissioner pursuant to Section 98.7.

SEC. 8. The discrimination complaint investigator shall be designated or appointed no later than 60 days after the effective date of this act. Personnel assigned to the investigation of discrimination complaints shall receive all necessary and appropriate training in the investigation of discrimination complaints upon designation or appointment as discrimination complaint investigators. Discrimination complaints assigned for investigation shall have a higher priority than any other work assigned to these investigators.

CHAPTER 1480

An act to add Article 2.6 (commencing with Section 31511) to Chapter 3 of Part 3 of Division 4 of Title 3 of the Government Code, relating to public employee retirement.

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

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

SECTION 1. Article 2.6 (commencing with Section 31511) is added to Chapter 3 of Part 3 of Division 4 of Title 3 of the Government Code, to read:

Article 2.6. Alternative Plan for Counties of the 13th Class

31511. (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 13th class as described by Sections 28020 and 28034, if the board of supervisors executes a memorandum of understanding agreement with employee representatives and adopts, by majority vote, a resolution providing that the article shall be applicable.

(c) The purpose of this article is to provide a 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 (2) existing general members who transfer to the plan herein created, 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 10 (commencing with Section 31720) shall not apply.

(2) Article 16.5 (commencing with Section 31870) shall not apply.

(g) Article 15 (commencing with Section 31830) shall only be applicable for service retirement. Those provisions of Article 15 (commencing with Section 31830) dealing with disability retirement and the requirement relating to the deposit of accumulated member contributions shall not apply.

(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 therein, no amendment to this article enacted subsequent to the effective date of this article shall apply to any county or to the employees of any county unless and until mutually agreed to by the employer and employee representatives and adopted by majority resolution of the board of supervisors.

31511.1. 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) "Member" or "general member" means an employee hired on a permanent basis, as defined by the employer, except an employee eligible for safety membership.

(e) "Primary insurance amount" means the monthly retirement benefit payable under the federal system at the normal retirement age.

(f) "Service" means the period of 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 long-term disability plan provided by the employer.

Except as otherwise herein provided, 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.

(g) "Final compensation" means the average annual compensation earnable by a member during any three years elected by a member at or before the time he or she files an application for retirement, or, if he or she fails to elect, during the three years immediately preceding his or her retirement. If a member has less than three years of service, his or her final compensation shall be determined by dividing his or her total compensation by the number of months of service credited to him or her and multiplying by 12.

The board of supervisors of any county subject to this article shall establish a defined contribution retirement plan authorized by Section 401 of the United States Code or a similar plan authorized by the United States Code.

31511.2. (a) There shall be no general members' contributions under the plan created by this article.

(b) No refund shall be made to any member who elects to transfer to the retirement plan created by this article of the member's accumulated contributions. A member who elects to transfer to the retirement plan established pursuant to this article shall receive: service credit toward vesting under the other retirement plan; a pension from the other retirement plan based upon his or her credited service on the day prior to the operative date of the transfer to the retirement plan established pursuant to this article; and a pension from the retirement plan established pursuant to this article based upon service credited on and after the operative date of the transfer to the retirement plan established pursuant to this article.

31511.3. (a) Absence from work or termination of employment while an eligible employee or disability beneficiary, as defined by the long-term disability plan provided by the employer, shall not be considered as breaking the continuity of service.

(b) For the purposes of subdivision (b) of Section 31511.4, an unpaid leave of absence 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 retirement benefits otherwise provided under this article.

31511.4. (a) Retirement of a member who has met the requirements for age and service shall be made by the board, at which time the member becomes a retired member.

(b) Any member who has completed 10 years of service shall be vested under the retirement plan created by this article.

(c) Any vested member who has attained normal retirement age 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. For purposes of this article,

normal retirement date means the first day of the month coincident with or next following the member's normal retirement age. For purposes of this article, normal retirement age means:

For Persons Born	Normal Retirement Age
1937 or before	65
1938	65 and 2 months
1939	65 and 4 months
1940	65 and 6 months
1941	65 and 8 months
1942	65 and 10 months
1943–1954	66
1955	66 and 2 months
1956	66 and 4 months
1957	66 and 6 months
1958	66 and 8 months
1959	66 and 10 months
1960 and later	67.

(d) Any vested 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.

(e) The normal retirement pension for a member who has attained normal retirement age shall consist of an annual allowance payable in monthly installments for the life of the retired member equal to: 2.333 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, but not to exceed 30 years; reduced by 2.166 percent of the estimated primary insurance amount, if any, multiplied by the number of years of service to the preceding completed month to which the member is entitled to be credited at retirement, but not to exceed 30 years, multiplied by a fraction, the numerator of which is the number of years of service with the employer subject to coverage under the federal system, but not to exceed 30 years, and the denominator of which is 30.

(f) 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, based on the number of years and months by which the member's early retirement date precedes the member's normal retirement date, in the following tables:

	Early Retirement Adjustment Factors				
	Months				
Years	0	1	2	3	4
0	1.0000	0.9944	0.9889	0.9833	0.9778

1	0.9333	0.9278	0.9222	0.9167	0.9111
2	0.8667	0.8611	0.8556	0.8500	0.8444
3	0.8000	0.7944	0.7889	0.7833	0.7778
4	0.7333	0.7278	0.7222	0.7167	0.7111
5	0.6667	0.6639	0.6611	0.6583	0.6556
6	0.6333	0.6306	0.6278	0.6250	0.6222
7	0.6000	0.5972	0.5944	0.5917	0.5889
8	0.5667	0.5639	0.5611	0.5583	0.5556
9	0.5333	0.5306	0.5278	0.5250	0.5222
10	0.5000	0.4972	0.4944	0.4917	0.4889
11	0.4667	0.4639	0.4611	0.4583	0.4556
12	0.4333	0.4306	0.4278	0.4250	0.4222

Early Retirement Adjustment Factors

	Months			
Years	5	6	7	8
0	0.9722	0.9667	0.9611	0.9556
1	0.9056	0.9000	0.8944	0.8889
2	0.8389	0.8333	0.8278	0.8222
3	0.7722	0.7667	0.7611	0.7556
4	0.7056	0.7000	0.6944	0.6889
5	0.6528	0.6500	0.6472	0.6444
6	0.6194	0.6167	0.6139	0.6111
7	0.5861	0.5833	0.5806	0.5778
8	0.5528	0.5500	0.5472	0.5444
9	0.5194	0.5167	0.5139	0.5111
10	0.4861	0.4833	0.4806	0.4778
11	0.4528	0.4500	0.4472	0.4444
12	0.4194	0.4167	0.4139	0.4111

Early Retirement Adjustment Factors

	Months			
Years	9	10	11	12
0	0.9500	0.9444	0.9389	0.9333
1	0.8833	0.8778	0.8722	0.8667
2	0.8167	0.8111	0.8056	0.8000
3	0.7500	0.7444	0.7389	0.7333
4	0.6833	0.6778	0.6722	0.6667
5	0.6417	0.6389	0.6361	0.6333
6	0.6083	0.6056	0.6028	0.6000
7	0.5750	0.5722	0.5694	0.5667
8	0.5417	0.5389	0.5361	0.5333
9	0.5083	0.5056	0.5028	0.5000
10	0.4750	0.4722	0.4694	0.4667
11	0.4417	0.4389	0.4361	0.4333
12	0.4083	0.4056	0.4028	0.4000

(g) 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 as of the date of retirement or the date of termination of a vested member, whichever is applicable, and the employee's earnings, provided that:

(1) An employee's earnings prior to the first day of service with the employer shall be assumed to have been zero, and

(2) An employee's earnings during the period of service shall include only those earnings paid by the employer, and

(3) For those members who have not attained the normal retirement age under the federal system as of the date of retirement (i) 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 (ii) 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 (iii) 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.

(h) 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.

(i) Notwithstanding subdivision (e), any retired member receiving a normal retirement pension may 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 or any reductions on account of early retirement. 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.

(j) All part-time and intermittent employees of a county which elects to be subject to this article shall not be eligible to participate in the retirement plans provided by this article.

31511.5. Notwithstanding any other provision of this chapter to the contrary, no surviving spouse benefit shall be paid to a surviving spouse of a member who at the time of death had not met the minimum age and service credit requirements for service retirement.

31511.6. General members may, within 180 days of the operative 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. Furthermore, any general member who does not elect to transfer during this 180-day period, may elect to transfer

within the 30 days prior to any annual anniversary of the operative date of this article. Such a transfer is voluntary and shall be irrevocable.

31511.7. Until the completion of the next regularly scheduled actuarial survey of the retirement system, the employer contribution rate required to finance the plan created by this article shall be established by the board, upon the recommendation of the actuary.

31511.8. The board shall before April 1 of each year determine whether there has been an increase or decrease in the cost of living as provided in this section. Notwithstanding Section 31481 or any other provision of this chapter (commencing with Section 31450), every retirement allowance, optional death allowance, or annual death allowance payable to or on account of any member of the plan created by this article who retires at or beyond normal retirement age or dies shall, as of April 1st of each year, be increased or decreased by a percentage of the total allowance then being received found by the board to approximate to the nearest one-half of 1 percent the percentage of annual increase or decrease in the cost of living as of January 1st of each year as shown by the then current Bureau of Labor Statistics Consumer Price Index for All Urban Consumers for the Los Angeles-Anaheim-Long Beach area, but such change shall not exceed 5 percent per year; however, the amount of any cost-of-living increase or decrease in any year which is not met by the maximum annual change of 5 percent in allowances shall be accumulated to be met by increases or decreases in allowances in future years; except that no decrease shall reduce the allowance below the amount being received by the member or his or her beneficiary on the effective date of the allowance. No adjustment shall be made in the retirement allowance of a member who retires prior to attaining normal retirement age until the member attains normal retirement age.

31511.9. (a) An employer which is subject to this article shall provide disability benefits for its employees through a long-term disability plan which shall be separate from and administered separately from the retirement plans authorized by this article and all other retirement plans.

(b) The long-term disability plan shall consist of a separate trust which shall be funded utilizing a level cost method and employer contributions. No employee shall be required to make any employee contribution to the long-term disability plan.

(c) The board of supervisors shall contract for the resolution of the issue of disability. The board of supervisors shall establish an appeals board to which a member who is aggrieved by a decision of the administrator may appeal.

(d) Any member permanently incapacitated for the performance of duty, regardless of age or years of service, shall receive disability benefits as follows: (1) for not to exceed two years; (2) for any time after the expiration of the two-year period specified in subdivision (a) if, and only if the member is unable to perform the duties of any

occupation for which the member is qualified by reason of training or experience.

(e) The disability benefit shall be 50 percent of the final compensation of the member reduced by any Social Security benefits, workers' compensation benefits, and earnings from any employment other than employment which is part of a rehabilitation program.

31511.10. (a) The board of retirement shall establish a position whose qualifications shall include experience in administration and communication of defined benefit plans and defined contribution plans and whose duties shall include management of the plan or plans adopted pursuant to this article and reporting to the county treasurer and the director of personnel.

(b) The board of retirement shall establish and implement a comprehensive communication program to educate employees regarding the benefits available under this article and Social Security.

31511.11. (a) The board of supervisors of any county subject to this article shall establish a defined contribution retirement plan authorized by Section 401 of the Internal Revenue Code of 1954 or a similar plan authorized by the Internal Revenue Code of 1954.

(b) Any full-time employee of the county who is hired by the county on or after the operative date of this article in that county and has completed 6 months of credited full-time service with the county or any member who elects to transfer to the retirement plan created by this article shall participate in the plan.

(c) The county shall partially or fully match the contributions of the employee on the basis mutually agreed to by the board of supervisors and the employee representatives.

(d) The right of the employee to benefits derived from employee contributions vests upon the commencement of the participation by the employee in the plan.

(e) The right of the employee to benefits derived from matching employer contributions vests 100 percent after five years of full-time service with the county.

(f) Upon termination of the employment of an employee whose benefits derived from employer contributions are not vested, benefits derived from the contributions of the employee shall be refunded to the employee and the matching contributions of the employer shall be credited to reduce future employer contributions or to pay expenses of the plan.

(g) The defined contribution plan shall accept rollover contributions from other plans to the extent authorized by federal law.

(h) The plan shall be administered in accordance with subdivision (k) of Section 401 of the United States Code.

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 1481

An act to amend Section 10232 of the Business and Professions Code, relating to property.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 10232 of the Business and Professions Code is amended to read:

10232. (a) Except as otherwise expressly provided, the provisions of Sections 10232.1, 10232.2, 10232.25, 10232.4, and 10232.5 are applicable to every real estate broker who intends or reasonably expects in any successive 12 months to do either of the following:

(1) Negotiate any combination of 20 or more of the following transactions pursuant to subdivision (d) or (e) of Section 10131 or Section 10131.1 in an aggregate amount of more than two million dollars ($2,000,000):

(A) Loans secured directly or collaterally by liens on real property or on business opportunities as agent for another or others.

(B) Sales or exchanges of real property sales contracts or promissory notes secured directly or collaterally by liens on real property or on business opportunities as agent for another or others.

(C) Sales or exchanges of real property sales contracts or promissory notes secured directly or collaterally by liens on real property as the owner of such notes or contracts.

(2) Make collections of payments in an aggregate amount of five hundred thousand dollars ($500,000) or more on behalf of owners of promissory notes secured directly or collaterally by liens on real property, owners of real property sales contracts, or both.

Persons under common management, direction or control in conducting the activities enumerated above shall be considered as one person for the purpose of applying the above criteria.

(b) The negotiation of any combination of five or more new loans and sales or exchanges of existing promissory notes and real property sales contracts of an aggregate amount of more than five hundred thousand dollars ($500,000) in any three successive months or any combination of 10 or more new loans and sales or exchanges of existing promissory notes and real property sales contracts of an aggregate amount of more than one million dollars ($1,000,000) in any successive six months shall create a rebuttable presumption that the broker intends to negotiate new loans and sales and exchanges of an aggregate amount that will meet the criteria of subdivision (a).

(c) Loans or sales negotiated by a broker, or for which a broker collects payments or provides other servicing for the owner of the note or contract, shall not be counted in determining whether the broker meets the criteria of subdivisions (a) and (b) if any of the

following apply:

(1) The lender or purchaser is the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, a bank, a bank holding company, a wholly-owned subsidiary of a bank holding company, a savings and loan association, a savings and loan association holding company, an industrial loan company, a credit union, an insurance company, or a pension trust.

(2) The loan or sale is negotiated, or the loan or contract is being serviced for the owner, under authority of a permit issued pursuant to the provisions of Article 6 (commencing with Section 10237) or applicable provisions of the Corporate Securities Law of 1968 (Section 25000 and following of the Corporations Code).

(d) If two or more real estate brokers who are not under common management, direction, or control, cooperate in the negotiation of a loan or the sale or exchange of a promissory note or real property sales contract and share in the compensation for their services, the dollar amount of the transaction shall be allocated according to the ratio that the compensation received by each broker bears to the total compensation received by all brokers for their services in negotiating the loan or sale or exchange.

(e) A real estate broker who on the effective date of this section satisfies the criteria of subdivision (a) or (b) shall, within 30 days thereafter, notify the Department of Real Estate in writing of that fact. A broker who first meets any of the criteria of subdivision (a) or (b) after January 1, 1982, shall notify the department in writing within 30 days after such a determination is made.

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 1482

An act to amend Section 49553 of, and to add Sections 49559 and 49560 to, the Education Code, relating to schools, and making an appropriation therefor.

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

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

SECTION 1. The Legislature hereby finds and declares that adolescent pregnancies often result in premature births, higher rates of infant deaths, school dropout rates, high medical costs, and

long-term poverty and dependency on public assistance programs. The Legislature also finds that federal, state, and local child nutrition programs that play a vital role in the health and education of children fail to adequately provide for the increased nutritional requirements of pregnancy and lactation for adolescents.

It is the intent of the Legislature to increase the meal reimbursement to those schools participating in the special school nutrition supplement program, and thereby to support the health and well-being of the students' newborn children.

It is the further intent of the Legislature that funds provided by this act shall supplement, and not supplant, current expenditures by federal, state, or local agencies for child nutrition programs.

SEC. 2. Section 49553 of the Education Code is amended to read:

49553. (a) For the purposes of this article, a nutritionally adequate lunch is one which meets one-third of the daily allowance established by the National Research Council.

(b) For the purposes of special school nutrition supplements provided to pregnant or lactating students under Section 49559, protein and grain meal components for any given day shall, together, offer a total of five ounces of protein, one ounce of which shall be cheese or eight ounces of milk and three servings from the grain group, preferably whole grains. This may be accomplished by adding one ounce of protein and one serving from the grain group at breakfast or serving these as a snack, and by adding one or two ounces of protein, one ounce of which must be cheese or eight ounces of milk, to lunch, or by offering a morning supplement consisting of two or three ounces of protein, one ounce of which must be cheese, or eight ounces of milk, and one or two servings from the grain group. Meal components where only breakfast is served shall be increased to a total including one ounce of protein and two servings from the grain group, preferably whole grains. Where both breakfast and lunch are provided, they shall, together, provide a total of five ounces of protein foods, one ounce of which shall be cheese, three servings from the grain group, preferably whole grains, one and one-fourth cups from the fruit and vegetable group, and one pint from the milk group.

SEC. 3. Section 49559 is added to the Education Code, to read:

49559. (a) Any school food authority that participates in a federal child nutrition program and is reimbursed pursuant to subdivision (b) of Section 41350 for meals served pursuant to this article may, commencing with the program period of January 1, 1986, to June 30, 1986, be reimbursed at the rate of 20 cents ($0.20) for breakfast or snack and 20 cents ($0.20) for lunch or 40 cents ($0.40) for a morning supplement. If the sum appropriated for purposes of this section is not sufficient to make the allowances specified by this section, the allowances shall be reduced proportionately. This rate shall be in addition to the reimbursement currently provided under Section 49536. The additional funds shall be used exclusively to supplement the meals served pursuant to Section 49550.

(b) Pregnant or lactating students shall qualify for nutrition program supplements under this section upon the submission of a written statement from their physicians certifying that they are pregnant or lactating. All statements shall be strictly confidential, in accordance with Section 49558.

(c) The State Department of Education shall make allowances to school food authorities from the General Fund on at least a quarterly basis. Program providers shall submit claims to the department within 10 calendar days of the end of each quarter. Within 45 calendar days of submission of a valid claim, the State Department of Education shall tender reimbursement.

(d) The State Department of Education shall, prior to July 1 of each year, prescribe an adjustment in the state meal contribution rates for the next fiscal year. The adjustments shall reflect the changes in the cost of operating a school breakfast, snack, morning supplement, and lunch program and shall be effective July 1 of each year. The adjustment shall be based on the average of the separate indices of the "Food Away From Home Index" for Los Angeles and San Francisco, as prepared by the United States Bureau of Labor Statistics.

In giving effect to the cost-of-living provisions of this subdivision, the State Department of Education shall prescribe a calendar month for the computation of the percentage change in the cost of living after July 1, 1985. The same month shall be used annually thereafter. The product of any percentage increase or decrease in the average index and the per meal reimbursement disbursement rate shall be adjusted by the amount of any cost-of-living change currently in effect pursuant to this subdivision. For the purposes of this subdivision, state reimbursement shall be made for the breakfast or lunch which qualifies for reimbursement pursuant to the nutritional requirements of Section 49553.

SEC. 4. Section 49560 is added to the Education Code, to read:

49560. The child nutrition programs operated pursuant to Section 49559 shall maintain a data base as specified by the Superintendent of Public Instruction for purposes of program evaluation. From the funds appropriated in Section 4 of this act, an amount not to exceed 5 percent may be used for administrative expenses incurred by the State Department of Education, including administrative costs incurred in the collection of the data.

SEC. 5. The sum of three hundred thousand dollars ($300,000) is hereby appropriated from the General Fund for reimbursement to school districts providing nutrition supplement programs for pregnant or lactating students pursuant to Section 49559 of the Education Code. It is the intent of the Legislature that no more than five hundred thousand dollars ($500,000) shall be appropriated in the future from the General Fund for any one fiscal year for these programs.

CHAPTER 1483

An act to add Article 6.5 (commencing with Section 69612) to Chapter 2 of Part 42 of, and to repeal Article 6 (commencing with Section 69600) of Chapter 2 of Part 42 of, the Education Code, relating to student financial aid, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Article 6 (commencing with Section 69600) of Chapter 2 of Part 42 of the Education Code is repealed.

SEC. 2. Article 6.5 (commencing with Section 69612) is added to Chapter 2 of Part 42 of the Education Code, to read:

Article 6.5. Assumption Program of Loans for Education

69612. (a) The Legislature hereby recognizes that there is a growing shortage of high quality classroom teachers, and that certain populations are particularly underrepresented in the teaching profession. The teacher shortage is currently most serious in the subject areas of mathematics, science, and bilingual education, partly due to the shortage of students in these fields entering the teaching profession. The Legislature also recognizes that many school districts have difficulty recruiting and retaining high quality teachers for schools serving large populations of students from low-income families.

The Legislature finds that the rising costs of higher education, coupled with a shift in available financial aid from scholarships and grants to loans, make loan repayment options an important consideration in a student's decision to pursue a postsecondary education. The availability of financial aid and loan repayment assistance are often particularly important considerations for students from underrepresented postsecondary student populations in making their educational decisions.

(b) It is the intent of the Legislature that the Assumption Program of Loans for Education be designed to encourage persons to enter into the teaching profession in designated subject matter shortage areas and in schools serving large populations of students from low-income families. It is further the intent of the Legislature in enacting this article to do all of the following:

(1) Provide outstanding postsecondary students, particularly those from populations underrepresented in the teaching profession, with the assurance of financial assistance to encourage them to complete postsecondary education programs leading to teaching credentials, and to seek employment as teachers.

(2) Provide persons who agree to become teacher trainees or teacher interns in a subject matter shortage area with the assurance of financial assistance to encourage them to complete the additional coursework necessary to obtain a teaching credential.

(3) Identify subject matter areas in which there are shortages of teachers and provide incentives for persons to obtain teaching credentials and seek teaching positions in those areas.

(4) Identify schools serving large populations of students from low-income families and provide incentives for persons to obtain teaching credentials and seek teaching positions in those schools

69612.5. (a) It is the intent of the Legislature that all loan assumptions awarded in the 1984–85 school year pursuant to Article 6 (commencing with Section 69600) be credited pursuant to the terms specified in Section 69607, as that section read in that school year, and paid from funds annually appropriated for that purpose in the Budget Act.

(b) It is the intent of the Legislature that, commencing with the 1985–86 school year, all persons eligible to receive conditional warrants for loan assumptions pursuant to this article shall be persons who need to complete additional training or coursework in order to be fully credentialed to teach in a designated subject matter shortage area, or in schools serving a large population of students from low-income families.

69613. (a) Any person enrolled in an institution of postsecondary education participating in the loan assumption program set forth in this article, or any person who agrees to participate in a teacher trainee or teacher internship program, may be eligible to receive a conditional warrant for loan assumption, to be redeemed pursuant to Section 69613.2 upon becoming employed as a teacher. In order to be eligible to receive a loan assumption warrant, an applicant shall satisfy all of the conditions specified in either subdivision (b) or (c):

(b) (1) The applicant has completed at least 60 semester units, or the equivalent, and is enrolled in an academic program leading to a baccalaureate degree at a participating institution, or has been admitted to a program of professional preparation that has been approved by the Commission on Teacher Credentialing.

(2) The applicant is currently enrolled in, or has been admitted to a program in which he or she will be enrolled in, at least 10 semester units, or the equivalent. The applicant shall agree to maintain not less than 10 semester units per semester, or the equivalent, and to maintain satisfactory academic progress.

(3) The applicant has been judged by his or her postsecondary institution to have outstanding ability on the basis of criteria that may include, but need not be limited to, any of the following:

(A) Grade point average.

(B) Test scores.

(C) Faculty evaluations.

(D) Interviews.

(E) Other recommendations.

(4) In order to meet the costs associated with obtaining a baccalaureate degree, or a California teaching credential, the applicant has received, or is approved to receive, a loan under one or more of the following designated loan programs:

(A) The federal Guaranteed Student Loan Program (GSLP).

(B) The National Direct Student Loan Program (NDSLP).

(C) Any loan program approved by the Student Aid Commission.

(5) The applicant has agreed to teach in a public school in this state for at least three consecutive academic years after obtaining a teaching credential.

(c) (1) The applicant agrees to participate in a teacher trainee program or teacher internship program in a designated subject matter shortage area, or is a person who will continue to be employed full time in a field other than teaching while completing the necessary coursework for a teaching credential in a designated subject matter shortage area.

(2) The applicant agrees to maintain satisfactory academic progress and satisfies the conditions specified in paragraphs (3), (4), and (5) of subdivision (b).

(d) Sixty percent of the warrants distributed each year pursuant to subdivision (b) at each participating institution shall be awarded by that institution to applicants who agree to obtain a teaching credential in subject areas that are designated as current or projected shortage areas by the Superintendent of Public Instruction. The warrant shall remain valid even if the subject area ceases to be a designated shortage field by the time the applicant becomes a teacher.

(e) The remaining 40 percent of the warrants distributed each year pursuant to subdivision (b) at each participating institution shall be awarded to applicants who agree to obtain teaching credentials in any subject area and to provide classroom instruction in schools that serve large populations of students from low-income families, as designated by the superintendent for purposes of the National Direct Student Loan Program or otherwise. The warrant shall remain valid even if the school ceases to be so designated during the applicant's second or third year of teaching.

(f) A person participating in the program pursuant to this section shall not receive more than one warrant.

(g) The Student Aid Commission shall adopt rules and regulations regarding the reallocation of warrants where a participating institution is unable to utilize its allocated warrants or is unable to distribute them proportionately to subdivisions (d) and (e) within a reasonable period of time.

69613.1. The Superintendent of Public Instruction shall furnish the Student Aid Commission with all of the following:

(a) A list of school districts which have a shortage of trained teachers in mathematics, science, bilingual education, and other critical shortage fields. The superintendent shall revise this list as he or she deems necessary.

(b) A list of schools that serve a large population of students from low-income families, as designated for purposes of the National Direct Student Loan Program, or according to other standards the superintendent deems appropriate.

69613.2. (a) The Student Aid Commission shall redeem an applicant's warrant and commence loan assumption payments as specified in Section 69613.4 upon verification that the applicant has fulfilled all of the following:

(1) The applicant has received a teaching credential requiring a baccalaureate degree, other than an emergency teaching credential, authorizing service for kindergarten or any of the grades one through twelve .

(2) The applicant has provided full-time classroom instruction in a public school for one school year. For the purposes of this section, an applicant who received a warrant to obtain a teaching credential or supplementary authorization in a designated subject matter shortage area shall provide instruction in that area unless the area ceases to be a designated subject matter shortage area.

(3) The applicant has met the requirements of the warrant and all other conditions of this article.

(b) The commission shall adopt rules and regulations regarding the reallocation of any warrants that are not utilized within the designated period of time.

69613.4. The terms of the loan assumptions granted under this article shall be as follows, subject to the specific terms of each warrant:

(a) After a program participant has completed one school year of classroom instruction pursuant to Section 69613.2, the Student Aid Commission shall assume up to two thousand dollars ($2,000) of the participant's outstanding liability under one or more of the designated loan programs.

(b) After a program participant has completed two consecutive school years of instruction, the commission shall assume up to an additional three thousand dollars ($3,000) of the participant's outstanding liability under one or more of the designated loan programs, for a total loan assumption of up to five thousand dollars ($5,000).

(c) After a program participant has completed three consecutive school years of teaching service, the commission shall assume up to a maximum of an additional three thousand dollars ($3,000) of the participant's outstanding liability under one or more of the designated loan programs, for a total loan assumption of up to eight thousand dollars ($8,000).

For purposes of this section, "school year" means at least 175 school days or its equivalent.

69613.6. (a) Except as provided in subdivision (b), in the event that a program participant fails to complete a minimum of three consecutive school years of classroom instruction as required by this article, under the terms of the agreement pursuant to paragraph (5)

of subdivision (a) of Section 69613, the participant shall assume full liability for all student loan obligations remaining after the commission's assumption of loan liability for the last year of qualifying teaching service pursuant to Section 69613.

(b) Notwithstanding subdivision (a), in the event that a program participant becomes unable to complete one of the three consecutive years of teaching service due to serious illness, pregnancy, or other natural causes, the participant shall receive a deferral of the resumption of full liability for the loan for a period not to exceed one calendar year.

69614. (a) The Student Aid Commission shall distribute student applications to participate in the loan assumption program to postsecondary institutions eligible to participate in state and federal financial aid programs and having a program of professional preparation that has been approved by the Commission on Teacher Credentialing. Each eligible institution shall receive at least one application, and the remainder shall be distributed to eligible institutions proportionate to the number of teaching candidates from each institution who were fully credentialed during the previous year.

(b) Each participating institution shall sign an institutional agreement with the commission, certifying its intent to administer the loan assumption program according to all applicable published rules, regulations, and guidelines, and to make special efforts to notify students regarding the availability of the program, particularly those students who are members of populations underrepresented in the teaching profession.

(c) To the extent feasible, each participating institution shall coordinate the loan assumption program with other existing programs designed to recruit or encourage students to enter the teaching profession. These programs may include, but need not be limited to, student internships in school districts, courses that provide early exploratory or field work experience in elementary or secondary schools, and work-study employment in elementary or secondary schools.

69615. The Student Aid Commission shall administer the provisions of this article, and shall adopt rules and regulations for that purpose. The rules and regulations shall include, but need not be limited to, provisions regarding the period of time for which a warrant shall remain valid, the reallocation of warrants that are not utilized, and the development of projections for funding purposes. The commission shall solicit the advice of representatives from postsecondary education institutions, the State Department of Education, the Commission on Teacher Credentialing, and school districts regarding the proposed rules and regulations.

69615.2. The Student Aid Commission shall work in conjunction with lenders participating in the California Guaranteed Student Loan Program to develop a streamlined application process for participation in the program set forth in this article.

69615.4. The commission shall report annually to the Legislature regarding all of the following, on the basis of sex, age, and ethnicity:

(a) The total number of warrants awarded.

(b) The number of warrants allocated each to juniors, seniors, students enrolled in teacher training programs, teacher trainees, and teacher interns.

(c) The proportion of warrants awarded to applicants who pursue a credential in a subject matter shortage area.

(d) The proportion of warrants awarded to applicants who agree to teach in schools with a high ratio of students from low-income families.

(e) The number of warrants that are redeemed by the initial recipients.

69615.6. Beginning no later than the 1986–87 school year, and each school year thereafter, the commission shall issue warrants for the assumption of up to 500 student loans for program participants eligible under this article. The issuance of warrants shall be subject to funding to be provided in the Budget Act for each fiscal year.

69616. It is the intent of the Legislature that, commencing with the 1985–86 fiscal year, funding necessary for the administration of the student loan assumption program shall be included within the annual budget of the Student Aid Commission in an amount necessary to meet the student loan obligations incurred by the commission.

SEC. 3. Loan assumptions awarded pursuant to Article 6 (commencing with Section 69600) of Chapter 2 of Part 42 of the Education Code prior to the effective date of this act shall continue to be governed by the terms specified in that article as it read prior to that date.

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 authorize the Student Aid Commission to implement the changes in the loan assumption program made by this act as soon as possible in the 1985–86 academic year, it is necessary that this act take effect immediately.

CHAPTER 1484

An act to amend Sections 7302, 7308, 7312, 7320, 7321, 7331, 7332, 7332.5, 7332.6, 7334, 7342, 7343, 7344, 7350.1, 7351, 7355, 7370, 7371, 7372.5, 7373, 7376.6, 7385, 7392, 7393, 7396.6, 7396.8, 7401, 7402, 7411, 7425, and 7437.3 of, to amend and renumber Section 7307.5 of, and to repeal and add Section 7394.5 of, the Business and Professions Code, relating to cosmetology, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 7302 of the Business and Professions Code is amended to read:

7302. A person appointed as a member of the board:

(a) With the exception of a public member, shall be registered as a cosmetologist under this chapter, or participate actively in the management of a school of cosmetology or electrology as the owner of, or as a member of a partnership or officer of a corporation which owns, such school.

(b) With the exception of a public member, shall be, at the time of appointment, either actually engaged in conducting a cosmetological establishment, or actually engaged in the practice of cosmetology or electrology.

(c) Shall be of good moral character.

(d) Shall not be connected, directly or indirectly, in the wholesale business of the manufacture, rental, sale or distribution of cosmetological appliances or supplies.

(e) With the exception of a public member, shall have had at least five years experience in the actual practice of cosmetology or electrology in this state immediately prior to the appointment. Persons shall be considered to be engaged in the actual practice of cosmetology or electrology within the meaning of this subdivision if they participate actively in the management of a school of cosmetology or electrology as the owner of, or as a member of a partnership or officer of a corporation which owns, such school.

(f) Shall be at least 25 years of age.

The public members shall not be licentiates of the board.

SEC. 2. Section 7307.5 of the Business and Professions Code is amended and renumbered to read:

7372.2. The board shall mail or deliver to every person failing any examination provided for in this chapter the total grade received on the examination.

SEC. 3. Section 7308 of the Business and Professions Code is amended to read:

7308. The board shall do all of the following:

(a) Provide for the examination of all applicants for registration, unless otherwise provided, whose applications have been submitted to it in proper form, the examinations to be held at least four times a year, one of which shall be held in each of the following cities: San Francisco, Sacramento, Los Angeles, and San Diego.

(b) Issue certificates of registration and licenses to such applicants as may be entitled thereto.

(c) Register cosmetological establishments and schools of cosmetology.

(d) Report to the proper prosecuting officers all violations of this

chapter coming within its knowledge.

SEC. 4. Section 7312 of the Business and Professions Code is amended to read:

7312. The board shall keep a registration record of each licensee containing the name, known places of business, number of the license and date issued, together with the name and addresses of all cosmetological establishments and schools of cosmetology and electrology, registered under this chapter. This record shall also contain such facts as the applicants may have stated in their application for examination for registration and license.

SEC. 5. 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 or electrology, 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 cosmetology or 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. 5.5. 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 or electrology, 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. 6. Section 7321 of the Business and Professions Code is amended to read:

7321. The art of cosmetology includes any and all and any combination of the following practices:

(a) Arranging, dressing, curling, waving, machineless permanent waving, permanent waving, cleansing, cutting, singeing, bleaching, tinting, coloring, straightening, dyeing, brushing, beautifying or otherwise treating by any means the hair of any person.

(b) Massaging, cleaning or stimulating the scalp, face, neck, arms, bust or upper part of the human body, by means of the hands, devices, apparatus or appliances, with or without the use of cosmetic preparations, antiseptics, tonics, lotions or creams.

(c) Beautifying the face, neck, arms, bust or upper part of the human body, by use of cosmetic preparations, antiseptics, tonics, lotions or creams.

(d) Removing superfluous hair from the body of any person by the use of electrolysis or by the use of depilatories or by the use of tweezers, chemicals, preparations or by the use of devices or appliances of any kind or description, except by the use of light

waves, commonly known as rays.

(e) Cutting, trimming, polishing, tinting, coloring, cleansing or manicuring the nails of any person.

(f) Massaging, cleansing, treating, or beautifying the hands or feet of any person.

SEC. 7. Section 7331 of the Business and Professions Code is amended to read:

7331. A junior operator is any person who is engaged in learning or acquiring a knowledge of the occupation of a cosmetologist, in a licensed cosmetological establishment, under the supervision of a licensed cosmetologist.

SEC. 8. Section 7332 of the Business and Professions Code is amended to read:

7332. The board shall admit to examination for a certificate of registration and license as a cosmetologist any person who has made application to the board in proper form, paid the fee required by this chapter, and is qualified as follows:

(a) Is not less than 17 years of age.

(b) Has not committed any acts or crimes constituting grounds for denial of licensure under Section 480.

(c) Has completed the 10th grade in the public schools of this state or its equivalent.

(d) Has had any one of the following:

(1) Training of at least 1,600 hours, at least 400 hours of which shall have been received within the five years immediately preceding application, in a school of cosmetology approved by the board.

(2) Practice of cosmetology, as defined in Section 7321, for a period of four years outside of this state. One year of such practice shall have been within the three years immediately preceding application. Each three months of such practice shall be deemed the equivalent of 100 hours of training for qualification under paragraph (1) of this subdivision.

(3) Service for at least two years as a licensed junior operator in a licensed cosmetological establishment in which all of the occupations of a cosmetologist are practiced.

(4) Practice of the occupation of a licensed barber in this state within the last preceding two years, and has completed a 400-hour approved course in a cosmetology school licensed by the board.

(5) Completion of a 1,500-hour course in a barbering school licensed by the State Board of Barber Examiners and has completed a 400-hour approved course in a cosmetology school licensed by the California Board of Cosmetology.

SEC. 9. Section 7332.5 of the Business and Professions Code is amended to read:

7332.5. The board shall admit to examination for a certificate of registration and license as a cosmetology instructor any person who has made application to the board in proper form, has paid the fee required by this chapter, and is qualified as follows:

(a) Has had at least 600 hours of teacher training in an approved

school in this state or equivalent training in another state, or one year's practical experience within the past three years in all branches of cosmetology, except the branch of electrology, in a licensed cosmetological establishment in this state or equivalent experience in another state.

(b) Has not committed any acts or crimes constituting grounds for denial of licensure under Section 480.

(c) Holds a valid California license as a cosmetologist.

An applicant shall submit an affidavit signed by his employers attesting to his or her experience.

SEC. 10. Section 7332.6 of the Business and Professions Code is amended to read:

7332.6. Notwithstanding any other provision of law, any person currently and validly licensed in this state as a cosmetologist who has made application to the board in proper form, has paid the fee required by this chapter, and has not committed acts or crimes constituting grounds for denial of licensure under Section 480, shall be granted a provisional license as a cosmetology instructor.

The provisional license shall authorize the holder thereof to practice the occupation of a cosmetology instructor in a licensed school of cosmetology provided there is not more than one provisional licensed instructor for each licensed cosmetology instructor employed full time by such school.

Every provisional license as a cosmetology instructor shall expire one year from the date of issue and shall not be renewable. A person may hold a provisional license as a cosmetology instructor only once.

Any person issued a provisional license as a cosmetology instructor who, within a period of not more than six months immediately following the date of expiration thereof, has made application to the board in proper form, accompanied by proof satisfactory to the board of having practiced the occupation of a cosmetology instructor for a period of not less than 10 months full time or its equivalent in a licensed school, has paid the fee required by the chapter and has not committed acts or crimes constituting grounds for denial of licensure under Section 480, shall be admitted to examination for a license as a cosmetology instructor.

SEC. 11. Section 7334 of the Business and Professions Code is amended to read:

7334. A licensed junior operator may engage in any one occupation of a cosmetologist upon a patron who is paying for service or materials, under the immediate supervision of a licensed cosmetologist in a licensed cosmetological establishment only after completing 350 hours of instruction.

The license of a junior operator shall expire upon the expiration of three years from the date the license was issued, or on the date the junior operator is issued a license as a cosmetologist, or, if the junior operator fails the cosmetologist examination twice, on the date the results of the second examination are issued.

SEC. 12. Section 7342 of the Business and Professions Code is

amended to read:

7342. The board shall admit to examination for a certificate of registration and license as an electrologist, any person who has made application to the board in proper form, paid the fee required by this chapter, and is qualified as follows:

(a) Is not less than 17 years of age.

(b) Has not committed acts or crimes constituting grounds for denial of licensure under Section 480.

(c) Has completed the 12th grade, or an accredited senior high school, in public schools of this state or its equivalent.

(d) Has had any one of the following:

(1) Training of at least 500 hours, at least 125 hours of which shall have been received within the five years immediately preceding application, in a school of cosmetology or electrology approved by the board.

(2) Instruction, training and practice as a junior electrologist for a period of not less than 12 months, in a licensed cosmetological establishment, under the supervision of a licensed electrologist.

(3) A currently valid electrology license issued by a state whose licensing requirements are equal to or greater than California.

(4) Practice of the occupation of an electrologist, as defined in Section 7340, for a period of 15 months outside of this state, within the five years immediately preceding application. Each three months of practice shall be deemed the equivalent of 100 hours of training for qualification under paragraph (1).

SEC. 13. Section 7343 of the Business and Professions Code is amended to read:

7343. Every person applying to the board for a license as a junior electrologist upon the proper application form accompanied by two photographs, size 3 by 3 inches, and paying the fee required by this chapter, shall be issued a license as a junior electrologist, if qualified as follows:

(a) Has not committed acts or crimes constituting grounds for denial of licensure under Section 480.

(b) Is not less than 17 years and 6 months of age.

(c) Has completed the 12th grade of this state, or an accredited senior high school, or its equivalent.

SEC. 14. Section 7344 of the Business and Professions Code is amended to read:

7344. For each licensed electrologist not more than four licensed junior electrologists may engage in the occupation of an electrologist when under the immediate supervision of such licensed electrologist. A junior electrologist may work upon a patron paying for services only after completing 150 hours of instruction and training.

SEC. 15. Section 7350.1 of the Business and Professions Code is amended to read:

7350.1. A manicurist, unless otherwise licensed by the board, is specifically prohibited from engaging in any and all of the following

practices:

(a) Arranging, dressing, curling, waving, machineless permanent waving, permanent waving, cleansing, cutting, singeing, bleaching, tinting, coloring, straightening, dyeing, brushing, beautifying, or otherwise treating by any means the hair on the head of any person.

(b) Massaging, cleaning, or stimulating the scalp, by means of the hands, devices, apparatus, or appliances, with or without the use of cosmetic preparations, antiseptics, tonics, lotions, or creams.

(c) Giving facials, applying makeup, giving skin care other than to the hands or feet, removing hair by tweezing, depilatory, or waxing or applying eyelashes to any person.

(d) Beautifying the face, neck, bust, or upper part of the human body, except the hands, by use of cosmetic preparations, antiseptics, tonics, lotions, or creams.

(e) Massaging, cleaning, or stimulating the face, neck, bust, or upper part of the human body, except the hands or arms, by means of the hands, devices, apparatus, or appliances, with the use of cosmetic preparations, antiseptics, tonics, lotions, or creams.

(f) Removing superfluous hair from the body of any person by the use of depilatories, or waxing, or by the use of tweezers.

SEC. 16. Section 7351 of the Business and Professions Code is amended to read:

7351. The board shall admit to the examination for a certificate of registration and license as a manicurist, any person who has made application to the board in proper form, paid the fee required by this chapter, and is qualified as follows:

(a) Is not less than 17 years of age.

(b) Has not committed any acts or crimes constituting grounds for denial of licensure under Section 480.

(c) Has completed the 10th grade in the public schools of this state or its equivalent.

(d) Has had any one of the following:

(1) Training of at least 350 hours, at least 88 hours of which shall have been received within the five years immediately preceding application, in a school of cosmetology approved by the board.

(2) Practice of the occupation of a manicurist, as defined in Section 7350, for a period of 10½ months outside of this state, within the five years immediately preceding application. Each three months of practice shall be deemed the equivalent of 100 hours of training for qualification under paragraph (1).

SEC. 17. Section 7355 of the Business and Professions Code is amended to read:

7355. The board shall admit to examination for a license as a cosmetician, any person who has made application to the board in proper form, paid the fee required by this chapter, and is qualified as follows:

(a) Is not less than 17 years of age.

(b) Has completed the 10th grade in the public schools of this state or its equivalent.

(c) Has had any one of the following:

(1) Training of at least 600 hours, at least 150 hours of which shall have been received within the five years immediately preceding application, in a school of cosmetology approved by the board.

(2) Practice of the occupation of a cosmetician, as defined in Section 7354, for at least 18 months outside of this state, within the five years immediately preceding application. Each three months of practice shall be deemed the equivalent of 100 hours training for qualification under paragraph (1).

SEC. 18. Section 7370 of the Business and Professions Code is amended to read:

7370. Every application for admission to examination, and every application for license as a cosmetologist, or in any branch of cosmetology, shall be in writing, on forms prepared and furnished by the board.

Each application shall be accompanied by the required fee, and shall contain proof of the qualifications of the applicant for examination for registration and license. It shall be verified by the oath of the applicant, and shall also be accompanied by two photographs of the applicant, taken within 90 days prior to date of application, size of photograph to be no larger than 5 inches by 3 inches.

SEC. 19. Section 7371 of the Business and Professions Code is amended to read:

7371. The examination of applicants for a license in any of the branches or practices of cosmetology shall include both a practical demonstration and a test and shall embrace the subjects concerning the particular branch or branches, practice or practices for which a certificate of registration and license is applied.

The examination shall not be confined to any particular system or method. It shall be consistent in both practical and technical requirements, and of sufficient thoroughness to satisfy the board as to the applicant's skill in, and knowledge of, the practice of the occupation or occupations for which a license is sought.

In the conduct of examinations, practical demonstrations shall prevail over written tests. A greater number of credits shall be allowed on practical demonstrations than on written tests.

All written instructions given during any examination shall be available in Spanish to applicants.

SEC. 20. Section 7372.5 of the Business and Professions Code is amended to read:

7372.5. An unsuccessful applicant for licensure, after taking an examination and within 90 days after the results thereof have been declared, shall have the right to inspect his or her examination paper in the city in which the examination was taken.

SEC. 21. Section 7373 of the Business and Professions Code is amended to read:

7373. Every applicant for a license as a cosmetologist, electrologist, manicurist, cosmetician, cosmetology instructor, or

electrology instructor satisfactorily passing the examination provided by the board to determine fitness to engage in the practice of the occupation for which the license is sought shall receive from the board a license which entitles the holder to engage in the practice of such occupation in a licensed cosmetological establishment or school, as the case may be.

SEC. 22. Section 7376.6 of the Business and Professions Code is amended to read:

7376.6. No law which may hereafter be enacted increasing the number of hours of training in a school of cosmetology which are required for eligibility for any examination shall apply to a person who on the effective date of such law is a student in, or has completed the prescribed course of study in, such a school. This section shall not apply to a person who does not apply for and take the first examination for which he or she is eligible occurring after the effective date of such law, unless compliance with this requirement is waived by the board for good cause.

SEC. 23. Section 7385 of the Business and Professions Code is amended to read:

7385. A violation of this article or of the regulations of the board mentioned herein is a misdemeanor and a ground for disciplinary action by the board.

SEC. 24. Section 7392 of the Business and Professions Code is amended to read:

7392. The certificate of registration and license authorizes the school of cosmetology or the school of electrology holding it to transact operations in this state only on the premises approved by the board during the year or fraction thereof for which it is issued, subject to the rules and regulations of the board. In the event the holder of the school of cosmetology or school of electrology license proposes to conduct a part of his or her school activity on premises other than those heretofore licensed by the board, then that licensee shall obtain an additional license for the newly proposed premises as a school of electrology or a school of cosmetology.

Nothing in this article shall be construed as authorization or permission to conduct a school of cosmetology or a school of electrology without a valid, existing, and unexpired certificate of registration covering the premises where the school is conducted.

SEC. 25. Section 7393 of the Business and Professions Code is amended to read:

7393. Before any school of cosmetology license shall be finally granted, a second inspection shall be made after the equipment has been installed and before the school is permitted to begin operation.

No applicant shall be granted a license to operate a school of cosmetology unless, in the opinion of the board, sufficient equipment has been installed for the requirements of enrolling a minimum of 25 bona fide students. No applicant shall be granted a license to operate a school of cosmetology or electrology unless the proposed school has such floor space and equipment as the board may

prescribe by regulation as being reasonably necessary to provide a proper place for instruction and training.

No school of cosmetology shall be licensed until the board has had ample opportunity to verify sworn statements as to the actual ownership. If false statements are submitted to the board in connection with the application, this in itself shall constitute sufficient grounds for the refusal to grant any application hereunder. If an application is granted and thereafter the board discovers that false statements were made in connection therewith, this shall constitute sufficient grounds for the cancellation of the school of cosmetology license even though it is detected after a license has been issued.

The board may deny a school of cosmetology license to any applicant who fails to present satisfactory evidence of personal integrity and moral responsibility, and in the event that the applicant is a corporation, this requirement shall apply to all the officers of the corporation. No school of cosmetology license, however, shall be issued until the real owner files with the department a statement definitely designating who is authorized to accept service of notice from the board and to transact all business negotiations on behalf of the school, including answers to citations for hearing and compliance with rulings issued by the board.

SEC. 26. Section 7394.5 of the Business and Professions Code is repealed.

SEC. 27. Section 7394.5 is added to the Business and Professions Code, to read:

7394.5. A student who transfers from one course of study to another, or a holder of a special license who enrolls in a general course of study, shall receive credit for total clock hours completed equal to that calculated by a method determined by the rules and regulations of the board, and shall receive credit and a balance for the minimum hours of technical instruction and the minimum practical operations required in each applicable subject equal to that calculated by a method determined by the rules and regulations of the board.

SEC. 28. Section 7396.6 of the Business and Professions Code is amended to read:

7396.6. No applicant shall be granted a license to operate a school of cosmetology or a school of electrology unless he or she submits evidence satisfactory to the board of his or her financial ability to provide the facilities and equipment required by board regulation and to maintain the operation of the proposed school for a period of one year.

SEC. 29. Section 7396.8 of the Business and Professions Code is amended to read:

7396.8. A student who enrolls in a school of cosmetology or electrology shall within seven days after the date of enrollment pay to the board the enrollment fee required by this chapter. Upon receipt of the fee and upon receipt of the enrollment certificate filed

for the student by the school, the board shall issue to the student a registration card for the course in which the student is enrolled and shall at the same time furnish a copy of the card to the school. Except as otherwise provided in this section, the registration card so issued shall entitle the student to complete the course in which the student is enrolled without payment of any further enrollment fee. If the student withdraws from the course for which the fee was paid and later enrolls in the same or a different course, whether in the same or a different school, or if the student transfers from the course for which the fee was paid to a different course, whether in the same or a different school, the student shall pay a new enrollment fee for the course in the same manner as required by this section for the original fee and the board shall issue to the student a registration card for the new course. If within 20 days after a student has enrolled in a particular course the school has not received a copy of a registration card issued to the student for the course in accordance with the provisions of this section, it shall require the student to discontinue training and shall not permit the student to resume training until it has received from the board a copy of a card so issued.

This section shall not apply to a person who is an inmate of a correctional institution while the person is confined therein.

SEC. 30. Section 7401 of the Business and Professions Code is amended to read:

7401. Every person who successfully completes the courses in cosmetology, any of its branches, or electrology given in a school under the Public School System of this state is eligible for registration and license under this chapter the same as if the courses were completed in a licensed private school of cosmetology or electrology approved by the State Board of Cosmetology.

For this purpose, successful completion of courses in cosmetology, any of its branches, or electrology given in public schools of the Public School System equal to and the equivalent of the courses required to be given in licensed private schools of cosmetology and electrology approved by the State Board of Cosmetology shall be deemed to be the fulfillment of the requirements of this chapter in regard to completion of courses in licensed schools of cosmetology or electrology approved by the State Board of Cosmetology.

SEC. 31. Section 7402 of the Business and Professions Code is amended to read:

7402. No school of cosmetology shall enroll any person as a student who is not at least 16 years of age.

SEC. 32. Section 7411 of the Business and Professions Code is amended to read:

7411. Every licensee shall display the license in a conspicuous place in his or her place of business or place of employment.

SEC. 33. Section 7425 of the Business and Professions Code is amended to read:

7425. (a) The board may revoke, suspend, or deny at any time any license required by the provisions of this chapter on any of the

grounds for disciplinary action provided in this article. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

(b) In any case in which the administrative law judge recommends that the board revoke, suspend, or deny a license, the administrative law judge shall, upon request of the board and upon presentation of suitable proof, order the licensee to pay the board the reasonable costs of the investigation and adjudication of the case. For purposes of this section, "costs" include charges by the board for investigating the case, charges incurred by the Office of the Attorney General for investigating and presenting the case, and charges incurred by the Office of Administrative Hearings for hearing the case and issuing a proposed decision.

(c) The costs to be assessed shall be fixed by the administrative law judge and shall not, in any event, be increased by the board. When the board 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.

(d) The board 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 board may have as to any licensee directed to pay costs.

(e) In any judicial action for the recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(f) All costs recovered under this section shall be deposited in the Board of Cosmetology contingent fund as a reimbursement in either the fiscal year in which the costs are actually recovered or the previous fiscal year, as the board may direct.

SEC. 34. Section 7437.3 of the Business and Professions Code is amended to read:

7437.3. A license as a cosmetologist, cosmetology instructor, electrologist, electrology instructor, cosmetician, or manicurist which has not been renewed within five years following its expiration may not be renewed, restored, reinstated, or reissued thereafter. The holder of the expired license may obtain a new license only by submitting an application, paying all required fees, and qualifying for and passing the examination that would be required if the holder were applying for the license for the first time.

SEC. 35. The sum of one hundred forty-six thousand five hundred fifty-three dollars ($146,553) is hereby appropriated from the Board of Cosmetology's contingent fund, in augmentation of Item 1240-022-738 of the Budget Act of 1985, for purposes of Section 3 of this act.

SEC. 36. Section 5.5 of this bill incorporates amendments to Section 7320 of the Business and Professions Code proposed by both

this bill and SB 180. 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 7320 of the Business and Professions Code, and (3) this bill is enacted after SB 180, in which case Section 7320 of the Business and Professions Code, as amended by SB 180, shall remain operative only until the operative date of this bill, at which time Section 5.5 of this bill shall become operative, and Section 5 of this bill shall not become operative.

SEC. 37. 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. 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:

In order to effectively deal with the large number of applicants for examination for licensure in cosmetology, any of its branches, or electrology which presently exists, it is necessary that this act go into immediate effect.

CHAPTER 1485

An act to amend Section 27712 of, and to add Chapter 15 (commencing with Section 27750) to Part 3 of Division 2 of Title 3 of, the Government Code, to amend Sections 1203, 1203.1c, 1203.1d, and 1205 of the Penal Code, and to amend Sections 323, 336, 338, 362, 639, 659, 661, 727, and 903.45 of the Welfare and Institutions Code, relating to counties.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 27712 of the Government Code is amended to read:

27712. (a) In any case in which a party is provided legal assistance, either through the public defender or private counsel appointed by the court, upon conclusion of the proceedings, or upon the withdrawal of the public defender or private counsel, after a hearing on the matter, the court may make a determination of the ability of the party to pay all or a portion of the cost of such legal assistance. Such determination of ability to pay shall only be made after a hearing conducted according to the provisions of Section 987.8 of the Penal Code; except that, in any court where a county financial

evaluation officer is available, the court shall order the party to appear before the county financial evaluation officer, who shall make an inquiry into the party's ability to pay this cost as well as other court-related costs. The party shall have the right to dispute the county finanacial evaluation officer's evaluation, in which case he or she shall be entitled to a hearing pursuant to Section 27752. If the party agrees with the county financial evaluation officer's evaluation, the county financial evaluation officer shall petition the court for an order to that effect. The court may, in its discretion, hold one such additional hearing, or the county financial evaluation officer may hold one such additional evaluation, within six months of the conclusion of the criminal proceedings. If the court determines, or upon petition by the county financial evaluation officer is satisfied, that the party has the ability to pay all or part of the cost, it shall order the party to pay the sum to the county in any installments and manner which it believes reasonable and compatible with the party's ability to pay. Execution may be issued on the order in the same manner as on a judgment in a civil action. The order shall not be enforced by contempt.

The court, or in a county which has a county financial evaluation officer, the board of supervisors, shall adjudge a standard by which to measure the cost of legal assistance provided, which standard shall reflect the actual cost of legal services provided. Appointed counsel shall provide evidence of the services performed pursuant to such standard.

SEC. 2. Chapter 15 (commencing with Section 27750) is added to Part 3 of Division 2 of Title 3 of the Government Code, to read:

CHAPTER 15. COUNTY FINANCIAL EVALUATION OFFICER

27750. The board of supervisors of any county may designate a county officer to make financial evaluations of defendants and other persons liable for reimbursable costs under the law. A county officer so designated shall be known as the county financial evaluation officer, whose duties shall be to determine, according to the standards set by the board of supervisors and at the direction of the court, the financial ability of parties who have incurred, or will incur, attorney's fees or other court-related or court-ordered costs, which costs by law must be waived or the services provided free of charge if the party is indigent.

27751. A county financial evaluation officer is authorized to perform the functions of a probation officer set forth in Sections 275, 276, and 323 of the Welfare and Institutions Code and Sections 1685 to 1687, inclusive, of the Code of Civil Procedure.

27752. A county financial evaluation officer is authorized to make financial evaluations and collect moneys pursuant to Section 4602 of the Civil Code; Sections 987.4, 987.8, 1203, 1203.1, 1203.1b, 1203.1c, 1203.1e, 1205, and 1209 of the Penal Code; and Sections 353, 353.5, 376, 700, 727, 751, 903, 903.1, 903.2, 903.3, and 903.45 of the Welfare and

Institutions Code.

27753. In any court where a financial evaluation officer is available, prior to the furnishing of counsel or legal assistance by the court, the court shall give notice to the defendant that the court, after a hearing pursuant to Section 27755 of the Government Code, shall make a determination of the ability of the defendant to pay all or a portion of the cost of counsel. The court shall give the defendant notice of his or her procedural rights under Section 27755 of the Government Code. The court shall also give notice that, if the court determines that the defendant has the financial ability, the court shall order him or her to pay all or a part of such cost in a manner which the court believes reasonable and compatible with the defendant's financial ability. The notice shall inform the defendant that the order shall have the same force and effect as a judgment in a civil action and shall be subject to enforcement against the property of the defendant in the same manner as any other money judgment. The notice shall also inform the defendant that if he or she is ordered to appear before the county financial evaluation officer and fails to so appear, an order for the full cost of the legal assistance provided shall be entered against him or her. The provisions of this section shall apply to all proceedings, including contempt proceedings, in which the party is represented by a public defender or appointed counsel.

27754. Notwithstanding any provision of the Penal Code to the contrary, in any court where a county financial evaluation officer is available, if there are any costs which a person might have to reimburse the county for under the Penal Code based on his or her financial ability at the conclusion of the proceedings, the court shall order such person to appear before the county financial evaluation officer, who shall make an inquiry into such person's ability to pay these costs, as well as other court-related costs. When the person is so ordered to appear before the county financial evaluation officer, the court shall then determine if there are other costs which he or she might have to pay that depend on his or her financial ability, and if so, shall order that the county financial evaluation officer make an inquiry into the person's ability to pay all or a portion of all such costs. The person shall have the right to dispute the county financial officer's evaluation, in which case he or she shall be entitled to a hearing pursuant to Section 27755 of the Government Code in the court that concluded the proceedings.

If the person, after having been ordered to appear before the county financial evaluation officer, has been given proper notice and fails to appear before the county financial evaluation officer as ordered, the county financial evaluation officer shall recommend to the court that the person be ordered to pay the full amount of such costs. Proper notice to the person shall contain all of the following:

(a) That he or she has a right to a statement of such cost as soon as it is available.

(b) The person's procedural rights under Section 27755 of the

Government Code.

(c) The time limit within which the person's appearance is required.

(d) A warning that if the person fails to appear before the county financial evaluation officer, such officer will recommend that the court order the person to pay such cost in full.

If the county financial evaluation officer determines that the person has the ability to pay all or a portion of these costs, with or without terms, and he or she concurs in this determination and agrees to the terms of payment, the county financial evaluation officer, upon his or her written evaluation and the person's written agreement, shall petition the court for an order requiring the person to pay that sum to the county in a manner which is reasonable and compatible with the person's financial ability. This order need not be obtained in the court which concluded the proceedings, and may be granted without further notice to the person, provided a copy of the order is served on the person by mail.

However, if the county financial evaluation officer cannot reach an agreement with the person with respect to either the person's liability for the costs, the amount of such costs, his or her ability to pay the same, or the terms of payment, the matter shall be deemed in dispute and referred by the county financial evaluation officer back to the court for a hearing pursuant to Section 27755 of the Government Code.

27755. (a) At any hearing required by law to determine a person's ability to pay court-related costs, such person shall have the right to be heard in person and to be represented by counsel, to present witnesses and other evidence, to confront and cross-examine adverse witnesses, to have the evidence against him or her disclosed to him or her, and to have a written statement of the findings of the court. A defendant represented by counsel appointed by the court in the criminal proceedings shall be entitled to such representation at any hearing held pursuant to this section. If the court determines that such person has the ability to pay all or a part of the costs, the court may set the amount to be reimbursed and order him or her to pay that sum to the county in the manner in which the court believes reasonable and compatible with his or her financial ability.

Failure of any such person who is not in custody to appear after proper notice for his or her financial evaluation before a county financial evaluation officer, or for this hearing, is a sufficient basis for an order directing the person to pay the full cost of his or her court-related costs as determined by the court. Proper notice to the person shall contain all of the following:

(1) That he or she has a right to a statement of such cost as soon as it is available.

(2) The person's procedural rights under this section.

(3) The time limit within which the person's appearance is required.

(4) A warning that if the person fails to appear before the county

financial evaluation officer, the county financial evaluation officer will recommend that the court order the person to pay such cost in full.

The order to pay all or a part of such costs may be enforced in the manner provided for enforcement of money judgments generally, including any balance remaining unpaid at the end of the person's probationary period, but may not be enforced by contempt unless otherwise provided for by law.

Any order entered under this subdivision is subject to relief under the provisions of Section 473 of the Code of Civil Procedure.

(b) As used in this section:

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

(2) "Ability to pay" means the overall capability of the person to reimburse the costs, or a portion of the costs involved and shall include, but not be limited to, all of the following:

(A) The person's present financial position.

(B) The person's reasonably discernible future financial position. In no event shall the court consider a period of more than six months from the date of the hearing or evaluation, whichever is applicable, for purposes of determining the person's reasonably discernible future financial position. Unless the court finds unusual circumstances, a defendant sentenced to state prison shall be determined not to have a reasonably discernible future financial ability to reimburse the costs involved, and need not be referred to the county financial evaluation officer for a financial evaluation.

(C) The likelihood that the person shall be able to obtain employment within a six-month period from the date of the hearing or evaluation, whichever is applicable.

(D) Any other factor or factors which may bear upon the person's financial capability to reimburse the county for the costs involved.

(c) If the court determines that the person has the ability to pay all or a part of the cost, the court shall set the amount to be reimbursed and order the person to pay the sum to the county in a manner in which the court believes reasonable and compatible with the person's financial ability. Failure of a person who is not in custody to appear at the evaluation or the hearing after due notice is sufficient grounds for an order directing the person to pay the amount of such costs as determined by the court. The order to pay all or a part of the costs may be enforced in the manner provided for enforcement of money judgments generally, but may not be enforced by contempt.

An order entered pursuant to this subdivision is subject to relief under Section 473 of the Code of Civil Procedure.

(d) At any time during the pendency of the judgment rendered according to the terms of this section, a person against whom a

judgment has been rendered may petition the rendering court to modify or vacate said judgment on the grounds of a change in circumstances with regard to the person's ability to pay the judgment. The court shall advise the person of this right at the time it renders the judgment.

27556. Notwithstanding Section 903.4 of the Welfare and Institutions Code, in any county where the board of supervisors has designated a county financial evaluation officer, the county financial evaluation officer shall make financial evaluations of parental liability for reimbursements and other court-ordered costs pursuant to Sections 903, 903.1, 903.2, 903.3, and 903.45 of the Welfare and Institutions Code, as directed by the board of supervisors, or as established by order of the juvenile court, and may enforce the court order as any other civil judgment, including any balance remaining unpaid after jurisdiction of the minor has terminated.

27757. (a) Except as otherwise ordered by the juvenile court, a county financial evaluation officer, upon satisfactory proof, may reduce, cancel, or remit the costs and charges listed in Sections 903, 903.1, 903.2, 903.3, and 903.45 of the Welfare and Institutions Code, or established by order of the juvenile court.

(b) The county financial evaluation officer may, following entry of an order by the juvenile court that a minor person be represented by the public defender or private attorney or be placed under the probation supervision of the probation officer or be placed or detained in, or committed to, a county institution or other place, make an investigation to determine the moneys, the property, or interest in property, if any, the minor person has, and whether he or she has a duly appointed and acting guardian to protect his or her property interests. The county financial evaluation officer may also make an investigation to determine whether the minor person has any relative or relatives responsible under the provisions of this chapter, and may ascertain the financial condition of that relative or those relatives to determine whether they are financially able to pay such charges.

(c) In any case where a county has expended money for the support and maintenance of any ward, dependent child or other minor person, or has furnished support and maintenance, and the court has not made an order of reimbursement to the county, in whole or in part, as provided by law, or the court has made and subsequently revoked such an order, if the ward, dependent child or other minor person or parent, guardian, or other person liable for the support of the ward, dependent child or other minor person acquires property, money, or estate subsequent to the date the juvenile court assumed jurisdiction over the ward, dependent child or minor person, or subsequent to the date the order of reimbursement was revoked, the county shall have a claim for said reimbursement against the ward, dependent child or other minor person or parent, guardian or other person responsible for such support and maintenance. Such claim shall be enforced by the county financial

evaluation officer or the district attorney, as the case may be.

27758. Any report of the county financial evaluation officer filed with the court may be inspected or copied only as follows:

(a) By any person, from the date judgment is pronounced or probation granted or, in the case of a report arising out of a previous arrest, from the date the subsequent accusatory pleading is filed, to and including 60 days from the date judgment is pronounced or probation is granted, whichever is earlier.

(b) By any person, at any time, by order of the court, upon filing a petition therefor by such person.

(c) By the general public, if the court upon its own motion orders that a report or reports shall be open or that the contents of the report or reports shall be disclosed.

(d) By any person authorized or required by law to inspect or receive copies of the report.

SEC. 3. Section 1203 of the Penal Code is amended to read:

1203. (a) As used in this code, "probation" shall mean the suspension of the imposition or execution of a sentence and the order of conditional and revocable release in the community under the supervision of the probation officer. As used in this code, "conditional sentence" shall mean the suspension of the imposition or execution of a sentence and the order of revocable release in the community subject to the conditions established by the court without the supervision of the probation officer. It is the intent of the Legislature that both conditional sentence and probation are authorized whenever probation is authorized in any code as a sentencing option for infractions or misdemeanors.

(b) Except as provided in subdivision (j), in every case in which a person is convicted of a felony and is eligible for probation, before judgment is pronounced, the court shall immediately refer the matter to the probation officer to investigate and report to the court, at a specified time, upon the circumstances surrounding the crime and the prior history and record of the person, which may be considered either in aggravation or mitigation of the punishment. The probation officer shall immediately investigate and make a written report to the court of his or her findings and recommendations, including his or her recommendations as to the granting or denying of probation and the conditions of probation, if granted. Pursuant to Section 828 of the Welfare and Institutions Code, the probation officer shall include in his or her report any information gathered by a law enforcement agency relating to the taking of the defendant into custody as a minor, which shall be considered for purposes of determining whether adjudications of commissions of crimes as a juvenile warrant a finding that there are circumstances in aggravation pursuant to Section 1170 or to deny probation. The probation officer shall also include in the report his or her recommendation of the amount the defendant should be required to pay as a restitution fine pursuant to Section 13967 of the Government Code. The probation officer shall also include in his or

her report a recommendation as to whether the court shall require, as a condition of probation, restitution to the victim or to the Restitution Fund. The report shall be made available to the court and the prosecuting and defense attorney at least nine days prior to the time fixed by the court for the hearing and determination of the report, and shall be filed with the clerk of the court as a record in the case at the time of the hearing. The time within which the report shall be made available and filed may be waived by written stipulation of the prosecuting and defense attorneys which is filed with the court or an oral stipulation in open court which is made and entered upon the minutes of the court. At a time fixed by the court, the court shall hear and determine the application, if one has been made, or, in any case, the suitability of probation in the particular case. At the hearing, the court shall consider any report of the probation officer and shall make a statement that it has considered such report which shall be filed with the clerk of the court as a record in the case. If the court determines that there are circumstances in mitigation of the punishment prescribed by law or that the ends of justice would be served by granting probation to the person, it may place the person on probation. If probation is denied, the clerk of the court shall immediately send a copy of the report to the Department of Corrections at the prison or other institution to which the person is delivered.

(c) If a defendant is not represented by an attorney, the court shall order the probation officer who makes the probation report to discuss its contents with the defendant.

(d) In every case in which a person is convicted of a misdemeanor, the court may either refer the matter to the probation officer for an investigation and a report or summarily pronounce a conditional sentence. If such a case is not referred to the probation officer, in sentencing the person, the court may consider any information concerning the person which could have been included in a probation report. The court shall inform the person of the information to be considered and permit him or her to answer or controvert such information. For this purpose, upon the request of the person, the court shall grant a continuance before the judgment is pronounced.

(e) Except in unusual cases where the interests of justice would best be served if the person is granted probation, probation shall not be granted to any of the following persons:

(1) Unless the person had a lawful right to carry a deadly weapon, other than a firearm, at the time of the perpetration of the crime or his or her arrest, any person who has been convicted of arson, robbery, burglary, burglary with explosives, rape with force or violence, murder, assault with intent to commit murder, attempt to commit murder, trainwrecking, kidnapping, escape from the state prison, or a conspiracy to commit one or more of such crimes and was armed with such weapon at either of such times.

(2) Any person who used or attempted to use a deadly weapon

upon a human being in connection with the perpetration of the crime of which he or she has been convicted.

(3) Any person who willfully inflicted great bodily injury or torture in the perpetration of the crime of which he or she has been convicted.

(4) Any person who has been previously convicted twice in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony.

(5) Unless the person has never been previously convicted once in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony, any person who has been convicted of burglary with explosives, rape with force or violence, murder, attempt to commit murder, assault with intent to commit murder, trainwrecking, extortion, kidnapping, escape from the state prison, a violation of Section 286, 288, or 288a, or a conspiracy to commit one or more of such crimes.

(6) Any person who has been previously convicted once in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony, if he or she committed any of the following acts:

(A) Unless the person had a lawful right to carry a deadly weapon at the time of the perpetration of such previous crime or his or her arrest for such previous crime, he or she was armed with such weapon at either of such times.

(B) The person used or attempted to use a deadly weapon upon a human being in connection with the perpetration of such previous crime.

(C) The person willfully inflicted great bodily injury or torture in the perpetration of such previous crime.

(7) Any public official or peace officer of this state or any city, county, or other political subdivision who, in the discharge of the duties of his or her public office or employment, accepted or gave or offered to accept or give any bribe, embezzled public money, or was guilty of extortion.

(8) Any person who knowingly furnishes or gives away phencyclidine.

(9) Any person who intentionally inflicted great bodily injury in the commission of arson under subdivision (a) of Section 451 or who intentionally set fire to, burned, or caused the burning of, an inhabited structure or inhabited property in violation of subdivision (b) of Section 451.

(f) When probation is granted in a case which comes within the provisions of subdivision (e), the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by such a disposition.

(g) If a person is not eligible for probation, the judge shall refer the matter to the probation officer for an investigation of the facts relevant to determination of the amount of a restitution fine pursuant to Section 13967 of the Government Code in all cases where

such determination is applicable. The judge, in his or her discretion, may direct the probation officer to investigate all facts relevant to the sentencing of the person. Upon such referral, the probation officer shall immediately investigate the circumstances surrounding the crime and the prior record and history of the person and make a written report to the court of his or her findings. The findings shall include a recommendation of the amount of the restitution fine as provided in Section 13967 of the Government Code.

(h) In any case in which a defendant is convicted of a felony and a probation report is prepared pursuant to subdivision (b) or (g), the probation officer shall obtain and include in such report a statement of the comments of the victim concerning the offense. The court may direct the probation officer not to obtain such a statement in any case where the victim has in fact testified at any of the court proceedings concerning the offense.

(i) No probationer shall be released to enter another state unless his or her case has been referred to the Administrator, Interstate Probation and Parole Compacts, pursuant to the Uniform Act for Out-of-State Probationer or Parolee Supervision (Article 3 (commencing with Section 11175) of Chapter 2 of Title 1 of Part 4).

(j) In any court where a county financial evaluation officer is available, in addition to referring the matter to the probation officer, the court may order the defendant to appear before such county financial evaluation officer for a financial evaluation of the defendant's ability to pay restitution, in which case the county financial evaluation officer shall report his or her findings regarding restitution and other court-related costs to the probation officer on the question of the defendant's ability to pay such costs.

Any order made pursuant to this subdivision may be enforced as a violation of the terms and conditions of probation upon willful failure to pay and at the discretion of the court and as stated in the order, may be enforced in the same manner as a judgment in a civil action, if any balance remains unpaid at the end of the defendant's probationary period.

SEC. 4. Section 1203.1c of the Penal Code is amended to read:

1203.1c. (a) In any case in which a defendant is convicted of an offense and is ordered to serve a period of confinement in a county jail or other local detention facility as a term of probation or a conditional sentence, the court may, after a hearing, make a determination of the ability of the defendant to pay all or a portion of the reasonable costs of such incarceration, including incarceration pending disposition of the case. The reasonable cost of such incarceration shall not exceed the amount determined by the board of supervisors of the county to be the actual average cost thereof on a per-day basis. The court may, in its discretion, hold additional hearings during the probationary period. The court may, in its discretion before such hearing, order the defendant to file a statement setting forth his or her assets, liability and income, under penalty of perjury, and may order the defendant to appear before a

county officer designated by the board or supervisors to make an inquiry into the ability of the defendant to pay all or a portion of such costs. At the hearing, the defendant shall be entitled to have the opportunity to be heard in person or to be represented by counsel, to present witnesses and other evidence, and to confront and cross-examine adverse witnesses. A defendant represented by counsel appointed by the court in the criminal proceedings shall be entitled to such representation at any hearing held pursuant to this section. If the court determines that the defendant has the ability to pay all or a part of the costs, the court may set the amount to be reimbursed and order the defendant to pay that sum to the county in the manner in which the court believes reasonable and compatible with the defendant's financial ability. Execution may be issued on the order in the same manner as on a judgment in a civil action. The order to pay all or part of the costs shall not be enforced by contempt.

If practicable, the court shall order payments to be made on a monthly basis and the payments shall be made payable to the county officer designated by the board of supervisors.

A payment schedule for reimbursement of the costs of incarceration pursuant to this section based upon income shall be developed by the county officer designated by the board of supervisors and approved by the presiding judges of the municipal and superior courts.

(b) "Ability to pay" means the overall capability of the defendant to reimburse the costs, or a portion of the costs, of incarceration and includes, but is not limited to, the defendant's:

(1) Present financial obligations, including family support obligations, and fines, penalties and other obligations to the court.

(2) Reasonably discernible future financial position. In no event shall the court consider a period of more than one year from the date of the hearing for purposes of determining reasonable discernible future position.

(3) Likelihood that the defendant shall be able to obtain employment within the one-year period from the date of the hearing.

(4) Any other factor or factors which may bear upon the defendant's financial ability to reimburse the county for the costs.

(c) All sums paid by a defendant pursuant to this section shall be deposited in the general fund of the county.

(d) This section shall be operative in a county upon the adoption of an ordinance to that effect by the board of supervisors. Such ordinance shall include a designation of the county officer responsible for collection of moneys ordered pursuant to this section and shall include a determination, to be reviewed annually, of the average per-day costs of incarceration in the county jail or other local detention facility.

SEC. 4.5. Section 1203.1c of the Penal Code is amended to read:

1203.1c. (a) In any case in which a defendant is convicted of an offense and is ordered to serve a period of confinement in a county

jail, city jail, or other local detention facility as a term of probation or a conditional sentence, the court may, after a hearing, make a determination of the ability of the defendant to pay all or a portion of the reasonable costs of such incarceration, including incarceration pending disposition of the case. The reasonable cost of such incarceration shall not exceed the amount determined by the board of supervisors, with respect to the county jail, and by the city council, with respect to the city jail, to be the actual average cost thereof on a per-day basis. The court may, in its discretion, hold additional hearings during the probationary period. The court may, in its discretion before such hearing, order the defendant to file a statement setting forth his or her assets, liability and income, under penalty of perjury, and may order the defendant to appear before a county officer designated by the board of supervisors to make an inquiry into the ability of the defendant to pay all or a portion of such costs. At the hearing, the defendant shall be entitled to have the opportunity to be heard in person or to be represented by counsel, to present witnesses and other evidence, and to confront and cross-examine adverse witnesses. A defendant represented by counsel appointed by the court in the criminal proceedings shall be entitled to such representation at any hearing held pursuant to this section. If the court determines that the defendant has the ability to pay all or a part of the costs, the court may set the amount to be reimbursed and order the defendant to pay that sum to the county, or to the city with respect to incarceration in the city jail, in the manner in which the court believes reasonable and compatible with the defendant's financial ability. Execution may be issued on the order in the same manner as on a judgment in a civil action. The order to pay all or part of the costs shall not be enforced by contempt.

If practicable, the court shall order payments to be made on a monthly basis and the payments shall be made payable to the county officer designated by the board of supervisors, or to a city officer designated by the city council with respect to incarceration in the city jail.

A payment schedule for reimbursement of the costs of incarceration pursuant to this section based upon income shall be developed by the county officer designated by the board of supervisors, or by the city council with respect to incarceration in the city jail, and approved by the presiding judges of the municipal and superior courts.

(b) "Ability to pay" means the overall capability of the defendant to reimburse the costs, or a portion of the costs, of incarceration and includes, but is not limited to, the defendant's:

(1) Present financial obligations, including family support obligations, and fines, penalties and other obligations to the court.

(2) Reasonably discernible future financial position. In no event shall the court consider a period of more than one year from the date of the hearing for purposes of determining reasonable discernible future position.

(3) Likelihood that the defendant shall be able to obtain employment within the one year period from the date of the hearing.

(4) Any other factor or factors which may bear upon the defendant's financial ability to reimburse the county or city for the costs.

(c) All sums paid by a defendant pursuant to this section shall be deposited in the general fund of the county or city.

(d) This section shall be operative in a county upon the adoption of an ordinance to that effect by the board of supervisors, and shall be operative in a city upon the adoption of an ordinance to that effect by the city council. Such ordinance shall include a designation of the officer responsible for collection of moneys ordered pursuant to this section and shall include a determination, to be reviewed annually, of the average per-day costs of incarceration in the county jail, city jail, or other local detention facility.

SEC. 5. Section 1203.1d of the Penal Code is amended to read:

1203.1d. In determining the amount and manner of disbursement under an order made pursuant to this code requiring a defendant to make reparation or restitution to a victim of a crime, to pay any money as reimbursement for legal assistance provided by the court, to pay any cost of probation or probation investigation, or to pay any cost of jail or other confinement, or to pay any other reimbursable costs, the court, after determining the amount of any fine and penalty assessments, and a county financial evaluation officer when making a financial evaluation, shall first determine the amount of restitution to be ordered paid to any victim, and shall then determine the amount of the other reimbursable costs.

If payment is made in full, the payment shall be apportioned and disbursed in the amounts ordered by the court.

If reasonable and compatible with the defendant's financial ability, the court may order payments to be made in installments.

With respect to installment payments, the board of supervisors may establish the priorities of payment, first between fines, penalty assessments, and reparation or restitution, and then between other reimbursable costs. The board of supervisors may also establish priorities of payment between orders or parts of orders in cases where defendants have been ordered to pay more than one court order.

SEC. 6. 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 he or she 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 must 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 he or she is in custody shall be made to the officer who holds him or her 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, of 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 him or her 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. The provisions of this section shall apply to any violation of any of the codes or statutes of the State of California punishable by a fine or by a fine and imprisonment. Nothing in this section shall be construed to prohibit the clerk of the court, or the judge thereof if there is no clerk, from turning these accounts over to another county department or a collecting agency for processing and collection.

(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 such 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. 6.5. 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 he or she 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 must 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 he or she is in custody shall be made to the officer who holds him or her 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, of 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 him or her 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. The provisions of this section shall apply to any violation of any of the codes or statutes of the State of California punishable by a fine or by a fine and imprisonment.

Nothing in this section shall be construed to prohibit the clerk of the court, or the judge thereof if there is no clerk, from turning these accounts over to another county department or a collecting agency for processing and collection.

(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). The Legislature hereby authorizes the establishment of the following program described in this section, to be implemented in the County of San Diego, upon the adoption of a resolution by the board of supervisors authorizing it. 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 such 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).

SEC. 7. Section 323 of the Welfare and Institutions Code is amended to read:

323. Upon any hearing or rehearing under the provisions of this article, the court may order such minor or any parent or guardian of such minor who is present in court to again appear before the court, the probation officer or the county financial evaluation officer at a time and place specified in said order.

SEC. 8. Section 336 of the Welfare and Institutions Code is amended to read:

336. The notice shall contain:

(a) The name and address of the person to whom the notice is directed.

(b) The date, time, and place of the hearing on the petition.

(c) The name of the minor upon whose behalf the petition has been brought.

(d) Each section and subdivision under which the proceeding has been instituted.

(e) A statement that the minor and his or her parent or guardian

or adult relative, as the case may be, to whom notice is required to be given, are entitled to have an attorney present at the hearing on the petition, and that, if the parent or guardian or such adult relative is indigent and cannot afford an attorney, and the minor or his or her parent or guardian or such adult relative desires to be represented by an attorney, such parent or guardian or adult relative shall promptly notify the clerk of the juvenile court, and that in the event counsel or legal assistance is furnished by the court, the parent or guardian or adult relative shall be liable to the county, to the extent of his, her, or their financial ability, for all or a portion of the cost thereof.

(f) A statement that the parent or guardian or responsible relative may be liable for the costs of support of the minor in a county institution.

SEC. 9. Section 338 of the Welfare and Institutions Code is amended to read:

338. In addition to the notice provided in Sections 335 and 336 the juvenile court may issue its citation directing any parent or guardian 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 such minor with him or her. The notice shall in addition state that a parent or guardian may be required to participate in a counseling program with the minor concerning whom the petition has been filed. Personal service of such citation shall be made at least 24 hours before the time stated therein for such appearance.

SEC. 10. Section 362 of the Welfare and Institutions Code is amended to read:

362. (a) When 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 make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the minor, including medical treatment, subject to further order of the court and consistent with subdivision (e) of Section 361.

When the court orders removal pursuant to Section 361, the court shall order the care, custody, control, and conduct of the minor to be under the supervision of the probation officer who may place the minor in any of the following:

(1) The home of a relative.

(2) A suitable licensed community care facility.

(3) With a home-finding agency to be placed in a suitable licensed home or exclusive use home which has been certified by the agency as meeting licensing standards.

(4) A home or facility in accordance with the federal Indian Child Welfare Act.

(b) Where the court has ordered removal of the child from the physical custody of his or her parents pursuant to Section 361, the

court shall consider whether the family ties and best interests of the minor will be served by granting visitation rights with the minor to the minor's grandparents. The court shall clearly specify those rights to the supervising probation officer.

(c) Where the court has ordered a specific minor placed under the supervision of the probation officer and the probation officer has found that the needs of the child cannot be met in any available licensed or exempt facility, including emergency shelter, the minor may be placed in a suitable family home that has filed a license application with the State Department of Social Services, if all of the following certification conditions are met:

(1) A preplacement home visit is made by the probation officer to determine the suitability of the family home.

(2) The probation officer verifies to the licensing agency in writing that the home lacks any deficiencies which would threaten the physical health, mental health, safety, or welfare of the minor.

(3) The probation officer notifies the licensing agency of the proposed placement and determines that the foster family home applicant has filed specific license application documents prior to and after the placement of the minor. If the license is subsequently denied, the minor shall be removed from the home immediately. The denial of the license constitutes a withdrawal of the certification.

(d) When a minor is adjudged a dependent child of the court, on the ground that the minor is a person described by Section 300 and the court orders that a parent or guardian shall retain custody of the minor subject to the supervision of the probation officer, the parents or guardians may be required, and may be ordered, to participate in child welfare services or services provided by an appropriate agency designated by the court. When a minor is adjudged a dependent child of the court on the ground that the minor is a person described by subdivision (d) of Section 300 and the court orders that a parent or guardian shall retain custody of the minor subject to the supervision of the probation officer, the parents or guardians shall be required to participate in child welfare services or services provided by an appropriate agency, designated by the court.

(e) The juvenile court may direct any and all reasonable orders to the parents or guardians of the minor who is the subject of any proceedings under this chapter as the court deems necessary and proper to carry out the provisions of subdivisions (a) and (c) , including orders to appear before a county financial evaluation officer. Such an order may include a direction to participate in a counseling or education program, including, but not limited to, a parent education and parenting program operated by a community college, school district, or other appropriate agency designated by the court. A foster parent may be directed to participate in such a program in cases in which the court deems participation is appropriate and in the child's best interest. The program in which a parent, guardian, or foster parent is required to participate shall be designed to eliminate those conditions that led to the court's finding

that the minor is a person described by Section 300.

SEC. 11. Section 639 of the Welfare and Institutions Code is amended to read:

639. Upon any hearing or rehearing under the provisions of this article, the court may order such minor or any parent or guardian of such minor who is present in court to again appear before the court or the probation officer or the county financial evaluation officer at a time and place specified in said order.

SEC. 12. Section 659 of the Welfare and Institutions Code is amended to read:

659. The notice must contain:

(a) The name and address of the person to whom the notice is directed.

(b) The date, time, and place of the hearing on the petition.

(c) The name of the minor upon whose behalf the petition has been brought.

(d) Each section and subdivision under which the proceeding has been instituted.

(e) A statement that the minor and his or her parent or guardian or adult relative, as the case may be, to whom notice is required to be given, are entitled to have an attorney present at the hearing on the petition, and that, if the parent or guardian or such adult relative is indigent and cannot afford an attorney, and the minor or his or her parent or guardian or such adult relative desires to be represented by an attorney, such parent or guardian or adult relative shall promptly notify the clerk of the juvenile court, and that in the event counsel or legal assistance is furnished by the court, the parent or guardian or adult relative shall be liable to the county, to the extent of his, her, or their financial ability, for all or a portion of the cost thereof.

(f) A statement that the parent or parents or responsible relative or guardian may be liable for the costs of support of the minor in a county institution.

SEC. 13. 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. Personal service of the citation shall be made at least 24 hours before the time stated therein for the appearance.

SEC. 14. 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. 15. Section 727 of the Welfare and Institutions Code is amended to read:

727. (a) When a minor is adjudged a ward of the court on the ground that he or she is a person described by Section 601 or Section 602 the court may make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of such a minor, including medical treatment, subject to further order of the court.

The court shall order the care, custody, and control of the minor to be under the supervision of the probation officer who may place the minor in any of the following:

(1) The home of a relative.

(2) A suitable licensed community care facility.

(3) With a home-finding agency to be placed in a suitable licensed home or exclusive use home which has been certified by the agency as meeting licensing standards.

(b) Where the court has ordered a specific minor placed under the supervision of the probation officer and the probation officer has found that the needs of the child cannot be met in any available licensed or exempt facility, including emergency shelter, the minor may be placed in a suitable family home that has filed a license application with the State Department of Social Services, provided that all the following certification conditions are met:

(1) A preplacement home visit is made by the probation officer to determine the suitability of the family home.

(2) The probation officer verifies to the licensing agency in writing that the home lacks any deficiencies which would threaten the physical health, mental health, safety, or welfare of the minor.

(3) The probation officer notifies the licensing agency of the proposed placement and determines that the foster family home applicant has filed specific license application documents prior to and after the placement of the minor. If the license is subsequently denied, the minor shall be removed from the home immediately. The denial of the license constitutes a withdrawal of the certification.

When a minor has been adjudged a ward of the court on the ground that he or she is a person described in Section 601 or 602 and the court finds that notice has been given in accordance with Section 661, and when the court orders that a parent or guardian shall retain custody of such minor subject to the supervision of the probation officer, the parent or guardian may be required to participate with such minor in a counseling or education program including, but not limited to, parent education and parenting programs operated by community colleges, school districts or other appropriate agencies designated by the court.

(c) The juvenile court may direct any and all reasonable orders to the parents and guardians of the minor who is the subject of any proceedings under this chapter as the court deems necessary and proper to carry out the provisions of subdivisions (a) and (b), including orders to appear before a county financial evaluation officer.

When counseling or other treatment services are ordered for the minor, the parent, guardian, or foster parent shall be ordered to participate in those services, unless participation by the parent, guardian, or foster parent is deemed by the court to be inappropriate or potentially detrimental to the child.

SEC. 15.1. Section 903.45 of the Welfare and Institutions Code is amended to read:

903.45. (a) The board of supervisors may designate a county financial evaluation officer pursuant to Section 27750 of the Government Code to make financial evaluations of parental liability for reimbursement pursuant to Sections 903, 903.1, 903.2, 903.3, and other reimbursable costs allowed by law, as set forth in this section.

(b) In any county where a board of supervisors has designated a county financial evaluation officer, the juvenile court shall, at the close of the disposition hearing, order any person liable for the cost of support, pursuant to Section 903, the cost of legal services as provided for in Section 903.1 or probation costs as provided for in Section 903.2, or any other reimbursable costs allowed under this code, to appear before the financial evaluation officer for a financial evaluation of his or her ability to pay those costs; and if the responsible person is not present at the disposition hearing, the court shall cite him or her to appear for such a financial evaluation.

If the county financial evaluation officer determines that a person so responsible has the ability to pay all or part of the costs, the county financial evaluation officer shall petition the court for an order requiring the person to pay that sum to the county. In evaluating a person's ability to pay under this section, the county financial evaluation officer and the court shall take into consideration the family's income, the necessary obligations of the family, and the number of persons dependent upon this income. Any person appearing for a financial evaluation shall have the right to dispute the county financial evaluation officer's determination, in which case he or she shall be entitled to a hearing before the juvenile court. The county financial evaluation officer at the time of the financial evaluation shall advise such a person of his or her right to a hearing and of his or her rights pursuant to subdivision (c).

At the hearing, any person so responsible for costs shall be entitled to have, but shall not be limited to, the opportunity to be heard in person, to present witnesses and other documentary evidence, to confront and cross-examine adverse witnesses, to disclosure of the evidence against him or her, and to receive a written statement of the findings of the court. The person shall have the right to be represented by counsel, and, when the person is unable to afford counsel, the right to appointed counsel. If the court determines that the person has the ability to pay all or part of the costs, including the costs of any counsel appointed to represent the person at the hearing, the court shall set the amount to be reimbursed and order him or her to pay that sum to the county in a manner in which the court believes reasonable and compatible with the person's financial ability.

If such person or persons, after having been ordered to appear before the county financial evaluation officer, have been given proper notice and fail to appear as ordered, the county financial evaluation officer shall recommend to the court that he, she, or they be ordered to pay the full amount of such costs. Proper notice to him, her, or them shall contain all of the following:

(1) That he, she or they have a right to a statement of such costs as soon as it is available.

(2) His, her, or their procedural rights under Section 27755 of the Government Code.

(3) The time limit within which his, her, or their appearance is required.

(4) A warning that if he, she, or they fail to appear before the county financial evaluation officer, such officer will recommend that the court order him, her, or them to pay such costs in full.

If the county financial evaluation officer determines that such person or persons have the ability to pay all or a portion of these costs, with or without terms, and he, she, or they concur in this determination and agree to the terms of payments, the county financial evaluation officer, upon his or her written evaluation and such person's or persons' written agreement, shall petition the court for an order requiring him, her, or them to pay that sum to the

county in a manner which is reasonable and compatible with his, her, or their financial ability. This order may be granted without further notice to such person or persons, provided a copy of the order is served on him, her, or them by mail.

However, if the county financial evaluation officer cannot reach an agreement with such person or persons with respect to either the liability for the costs, the amount of such costs, his, her or their ability to pay the same, or the terms of payment, the matter shall be deemed in dispute and referred by the county financial evaluation officer back to the court for a hearing.

(c) At any time prior to the satisfaction of a judgment entered pursuant to this section, a person against whom the judgment was entered may petition the rendering court to modify or vacate the judgment on the basis of a change in circumstances relating to his or her ability to pay the judgment.

(d) Execution may be issued on the order in the same manner as on a judgment in a civil action, including any balance remaining unpaid at the termination of the court's jurisdiction over the minor.

SEC. 15.5. Section 4.5 of this bill incorporates amendments to Section 1203.1c of the Penal Code proposed by both this bill and AB 1740. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 1203.1c of the Penal Code, and (3) this bill is enacted after AB 1740, in which case Section 4 of this bill shall not become operative.

SEC. 15.6. Section 6.5 of this bill incorporates amendments to Section 1205 of the Penal Code proposed by both this bill and SB 800. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 1205 of the Penal Code, and (3) this bill is enacted after SB 800, in which case Section 6 of this bill shall not become operative.

SEC. 16. Section 14 of this bill incorporates amendments to Section 661 of the Welfare and Institutions Code proposed by both this bill and AB 378. 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 AB 378, in which case Section 13 of this bill shall not become operative.

SEC. 17. 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 1486

An act to amend Sections 1305 and 1305.1 of the Penal Code, relating to bail.

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

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

SECTION 1. Section 1305 of the Penal Code, as amended by Chapter 1114 of the Statutes of 1972, is amended to read:

1305. (a) If, without sufficient excuse, the defendant neglects to appear for arraignment or for trial or judgment, or upon any other occasion when his presence in court is lawfully required, or to surrender himself in execution of the judgment, the court must direct the fact to be entered upon its minutes, and the undertaking of bail, or the money deposited instead of bail, as the case may be, must thereupon be declared forfeited, and, if the amount of the forfeiture exceeds one hundred dollars ($100), the clerk of the court shall, promptly upon entering the fact of such failure to appear in the minutes, mail notice of the forfeiture to the surety on the bond or depositor of money instead of bond, and shall execute a certificate of such mailing and place it in the court's file in the case. If the surety is an authorized corporate surety insurer, and if the bond has plainly printed or stamped thereon the address of its principal office, such notice shall be mailed to such surety at such address, and mailing to the bail agent or solicitor who posted the bond shall not constitute compliance with this section; the clerk shall at the same time send a copy of such notice to the bail agent or solicitor who posted the bond. If the clerk fails to mail such notice within 30 days after such entry, the surety or depositor shall be released from all obligations under the bond.

But if at any time within 180 days after such entry in the minutes or, if mailing of notice of forfeiture is required, within 180 days after mailing such notice of forfeiture, the defendant appears, and satisfactorily excuse the defendant's neglect or show to the satisfaction of the court that the absence of the defendant was not with the connivance of the bail, the court shall, under terms as may be just and that are equal with respect to all forms of pretrial release, direct the forfeiture of the undertaking or the deposit to be set aside and the bail or the money deposited instead of bail exonerated immediately. The court may order the bail reinstated and the defendant released again on the same bond after notice to the bail, provided that the bail has not surrendered the defendant. If at any time within 180 days after such entry in the minutes or mailing as the case may be, the bail should surrender the defendant to the court or to custody, the court shall under terms as may be just direct the forfeiture of the undertaking or the deposit to be set aside and the

bail or the money deposited instead of bail exonerated immediately.

If within 180 days after such entry in the minutes or mailing as the case may be, it is made to appear to the satisfaction of the court that the defendant is dead or is otherwise permanently unable to appear in court due to illness, insanity, or detention by civil or military authorities, and that the absence of the defendant was not with the connivance of the bail, the court shall, under terms as may be just and that are equal with respect to all forms of pretrial release, direct the forfeiture of the undertaking or the deposit to be set aside and the bail or the money deposited instead of bail exonerated immediately. If within 180 days after such entry in the minutes or mailing as the case may be, it is made to appear to the satisfaction of the court that the defendant is temporarily disabled by reason of illness, insanity, or detention by civil or military authorities and is therefore unable to appear in court at any time during the remainder of such 180 days, and that the absence of the defendant has not been with the connivance of the bail, then the period of time during which the disability continues shall not be deemed part of such 180 days. Upon a finding by the court that a reasonable period of time is necessary in order to return the defendant to court upon the termination of the disability, then such period of time, as fixed by the court, shall not be deemed part of such 180 days.

Unless waived by the district attorney or other prosecuting attorney, no order discharging the forfeiture of the undertaking or deposit shall be made without notice by the bail to the district attorney or prosecuting attorney, who may request a hearing within 10 days after receipt of the notice. The court shall then set the date, time, and place of hearing and give notice to the district attorney or prosecuting attorney and to the bail.

(b) If, without sufficient excuse, the defendant neglects to appear for arraignment, trial, judgment, or upon any other occasion when his presence in court is lawfully required, or to surrender himself in execution of the judgment, but the court has reason to believe that sufficient excuse may exist for his neglect to appear or surrender himself, the court may continue the case for such period as it deems reasonable to enable the defendant to appear without ordering a forfeiture of bail or issuing a bench warrant.

SEC. 3. Section 1305.1 of the Penal Code is amended to read:

1305.1. If an assessment is made a condition of discharging the forfeiture under Section 1305, the clerk of the court shall within 30 days mail notice thereof to the surety or depositor at the address of its principal office and shall execute a certificate of mailing and place it in the court's file in the case. The time limit for payment shall in no event be less than 30 days after the date of mailing of such notice.

If the assessment has not been paid by the date specified, the court shall determine if a certificate of mailing has been executed, and if none has, the court shall cause a notice to be mailed to the surety or depositor, and said surety or depositor shall be allowed an additional 30 days to pay the assessment.

CHAPTER 1487

An act to amend 1042, 46146, 48800, 48802, and 76002 of, and to add Sections 48800.5, 48803, and 76001.5 to, the Education Code, relating to education, and declaring the urgency thereof, to take effect immediately.

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

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

SECTION 1. Section 1042 of the Education Code is amended to read:

1042. County boards of education may:

(a) Adopt rules and regulations governing the administration of the office of the county superintendent of schools.

(b) Review the county superintendent of schools annual itemized estimate of anticipated revenue and expenditures before the annual itemized estimate is filed with the auditor as required by Section 29040 of the Government Code, and make any revisions, reductions, or additions therein it deems advisable and proper. No itemized estimate shall be filed by the county superintendent of schools or be approved by the board of supervisors until it has first been so reviewed and approved by the county board of education.

(c) In the name by which the board of education is designated, acquire, lease, lease-purchase, hold and convey real property for the purpose of housing the offices and the services of the county superintendent of schools, except that this subdivision shall only apply to the county boards of education to which all or a portion of the duties and functions of the county board of supervisors specified in subdivision (b) of Section 1080 have been transferred, with the exception of the recreational duties and recreational functions specified in subdivisions (c) and (e) of Section 1080.

(d) Contract with and employ any persons for the furnishing to the board of special services and advice in financial, economic, accounting, engineering, legal, or administrative matters, if these persons are specially trained and experienced and competent to perform the special services required. The board may pay from any available funds such compensation to these persons as it deems proper for the services rendered.

(e) Notwithstanding Section 25304 of the Government Code, fill by appointment any vacancy that occurs during the term of office of the county superintendent of schools. In any county in which the superintendent is elected, the appointee shall hold office until the office is filled by election at the next gubernatorial election.

The authority described in this subdivision shall be vested in a county board of education only upon its adoption by the board at a public meeting held pursuant to Article 1 (commencing with Section

1000) of Chapter 1 of Part 2.

SEC. 2. Section 46146 of the Education Code is amended to read:

46146. (a) A day of attendance in grades 11 and 12 is 180 minutes of attendance if the pupil is enrolled part-time in classes of the California State University or the University of California for which academic credit will be provided upon satisfactory completion of enrolled courses.

(b) A day of attendance for any pupil who is a special part-time student enrolled in a community college under Article 1 (commencing with Section 48800) of Chapter 5 of Part 27 is 180 minutes of attendance for which academic credit will be provided upon satisfactory completion of enrolled courses.

(c) Notwithstanding any other provisions of law, the 180-minute minimum school day permitted by this section shall, for the purposes of average daily attendance, be computed and reported as attendance for three-quarters of the full 240-minute minimum school day prescribed by Section 46141.

SEC. 2.5. Section 48800 of the Education Code is amended to read:

48800. The governing board of any school district may determine which students would benefit from advanced scholastic or vocational work. The intent of this section is to provide educational enrichment opportunities for a limited number of eligible pupils, rather than to reduce current course requirements of elementary and secondary schools. The governing board may authorize those students, upon recommendation of the principal of the school that the pupil attends, and with parental consent, to attend a community college as special part-time students and to undertake one or more courses of instruction offered at the community college level.

The students shall receive credit for community college courses that they complete, in the same manner as regularly enrolled community college students.

SEC. 3. Section 48800.5 is added to the Education Code, to read:

48800.5. (a) A parent or guardian of any pupil, regardless of the pupil's age or class level, may petition the governing board of the school district in which the pupil is enrolled to authorize the attendance of the pupil at a community college as a special full-time student on the ground that the pupil would benefit from advanced scholastic or vocational work that would thereby be available. If the governing board denies the petition, the pupil's parent or guardian may file an appeal with the county board of education, which shall render a final decision on the petition.

Any pupil who attends a community college as a special full-time student pursuant to this section is exempt from compulsory school attendance under Chapter 2 (commencing with Section 46100) of Part 26.

(b) A parent or guardian of a pupil who is not enrolled in a public school may directly petition the president of any community college to authorize the attendance of the pupil at the community college

as a special full-time student on the ground that the pupil would benefit from advanced scholastic or vocational work that would thereby be available.

(c) Any pupil authorized to attend a community college as a special full-time student shall, nevertheless, be required to undertake courses of instruction of a scope and duration sufficient to satisfy the requirements of law.

(d) For purposes of allowances and apportionments from the State School Fund, a community college shall be credited with additional units of average daily attendance attributable to the attendance of special full-time students at the community college.

SEC. 4. Section 48802 of the Education Code is amended to read:

48802. For purposes of allowances and apportionments from Section B of the State School Fund, a community college shall be credited with additional units of average daily attendance attributable to the attendance of pupils at the community college as special part-time students pursuant to this article.

A school district whose pupils attend a community college as special part-time students pursuant to this article shall, for purposes of allowances and apportionments from Section A of the State School Fund, continue to receive credit for attendance by those pupils computed in the manner prescribed by law, and a pupil's attendance at school for the minimum schoolday shall be deemed a day of attendance for purposes of making the computation.

SEC. 5. Section 48803 is added to the Education Code, to read:

48803. The Superintendent of Public Instruction shall annually report to the Legislature concerning the special part-time and special full-time students described in this article. The report shall include, but need not be limited to, the following information:

(1) The number and grade level of these students attending community colleges.

(2) The courses in which these students are enrolled.

SEC. 6. Section 76001.5 is added to the Education Code, to read:

76001.5. The president of any community college may admit to the community college as a special full-time student any student who is eligible to attend community college pursuant to Section 48800.5, and who, in the opinion of the college president, could benefit from the course or class.

The attendance of a student at a community college as a special part-time student pursuant to this section is authorized attendance, for which the community college shall be credited pursuant to Section 48800.5.

SEC. 7. Section 76002 of the Education Code is amended to read:

76002. (a) The president of any community college may admit to the summer session of the community college as a special student any student, with parental consent:

(1) Whose admission to summer session is recommended by the principal of the school which the student attends.

(2) Who has demonstrated adequate preparation in the discipline

to be studied.

(3) Who has availed himself or herself of all opportunities to enroll in an equivalent course at his or her school of attendance.

(b) A principal may recommend such a student as a special student pursuant to rules and regulations which may be adopted by the governing board of the school district. The principal of a school shall not recommend a number of students who have completed a particular grade in excess of 5 percent of the total number of students in the school who have completed that grade immediately prior to the time of recommendation.

(c) The attendance of a special summer session student at a community college pursuant to this section shall be credited to the district maintaining the community college for the purposes of allowances and apportionments from the State School Fund. The student shall receive credit for community college courses that he or she completes, in the same manner as a regularly enrolled community college student.

(d) Sections 76001, 76001.5, and 48800 to 48802, inclusive, do not apply to the special students authorized to be admitted to a community college summer session pursuant to this section.

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 that necessary changes in the provisions governing the appointment of county superintendents of schools and the admission of pupils in public schools to the community college system may be implemented prior to the beginning of the 1985–86 academic year, it is necessary that this act take effect immediately.

CHAPTER 1488

An act to amend Sections 1253.3 and 4002 of, to add Chapter 5.5 (commencing with Section 1451) to Part 1 of Division 1 of, and to repeal Sections 978.1, 1253.9, and 1375.2 of, the Unemployment Insurance Code, relating to unemployment insurance.

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

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

SECTION 1. Section 978.1 of the Unemployment Insurance Code is repealed.

SEC. 2. Section 1253.3 of the Unemployment Insurance Code is amended to read:

1253.3. (a) Notwithstanding any other provision of this division, unemployment compensation benefits, extended duration benefits,

and federal-state extended benefits are payable on the basis of service to which Section 3309(a)(1) of the Internal Revenue Code of 1954 applies, in the same amount, on the same terms, and subject to the same conditions as benefits payable on the basis of other service subject to this division, except as provided by this section.

(b) Benefits specified by subdivision (a) based on service performed in the employ of a nonprofit organization, or of any public entity as defined by Section 605, or of any federally operated school, with respect to service in an instructional, research, or principal administrative capacity for an educational institution are not payable to any individual with respect to any week which begins during the period between two successive academic years or terms or, when an agreement provides instead for a similar period between two regular but not successive terms, during that period, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual performs services in the first of the academic years or terms and if there is a contract or a reasonable assurance that the individual will perform services for any educational institution in the second of the academic years or terms.

(c) Benefits specified by subdivision (a) based on service performed in the employ of a nonprofit organization, or of any public entity as defined by Section 605, or of any federally operated school, with respect to service in any other capacity than specified in subdivision (b) for an educational institution shall not be payable to any individual with respect to any week which commences during a period between two successive academic years or terms if the individual performs the service in the first of the academic years or terms and there is a reasonable assurance that the individual will perform the service in the second of the academic years or terms . However, if the individual was not offered an opportunity to perform the services for an educational institution for the second of the academic years or terms, the individual shall be entitled to a retroactive payment of benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of this subdivision. Retroactive benefits shall be claimed in accordance with the department's procedures which shall specify that except where the individual was entitled to benefits based on services performed for other than an educational institution, an individual who has a reasonable assurance of reemployment may satisfy the search for work requirement of subdivision (e) of Section 1253, by registering for work pursuant to subdivision (b) of Section 1253 during the period between the first and second academic terms or years. A claim for retroactive benefits may be made no later than 30 days following the commencement of the second academic year or term.

(d) Benefits specified by subdivision (a) based on service performed in the employ of a nonprofit organization, or of any public entity as defined by Section 605, or of any federally operated school, with respect to services specified by subdivision (b) or (c), are not

payable to any individual with respect to any week which commences during an established and customary vacation period or holiday recess if the individual performs the services in the period immediately before the vacation period or holiday recess, and there is a reasonable assurance that the individual will perform the services in the period immediately following the vacation period or holiday recess.

(e) With respect to any services specified by subdivision (b) or (c), compensation payable on the basis of services in any such capacity may be denied as specified in subdivision (b), (c), or (d) to any individual who performed the services in an educational institution while in the employ of an educational service agency, and for this purpose the term "educational service agency" means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing the services to one or more educational institutions.

(f) Benefits specified by subdivision (a) based on service performed in the employ of a nonprofit organization, or of any public entity as defined by Section 605, are not payable during the periods of time, and subject to the same conditions, contained in subdivisions (b), (c), (d), and (h), if the services are provided to, or on behalf of, an educational institution.

(g) For purposes of this section, "reasonable assurance" includes, but is not limited to, an offer of employment or assignment made by the educational institution, provided that the offer or assignment is not contingent on enrollment, funding, or program changes. An individual who has been notified that he or she will be replaced and does not have an offer of employment or assignment to perform services for an educational institution is not considered to have reasonable assurance.

(h) For purposes of this section, if the time for service performed during the period of and pursuant to any contract for any academic year or term by an individual for any employing unit as specified in subdivision (b) or (c) constitutes one-half or more of the time in total service performed for the employing unit by the individual during that same period for remuneration, all the services of the individual for the employing unit for that period shall be deemed subject to the benefit payment restriction provisions of this section.

(i) Any public entity as defined by Section 605, with respect to any individual performing a service in any other capacity other than specified in subdivision (b) for an educational institution, shall provide a written statement indicating the following to the individual no later than 30 days before the end of the first of the academic years or terms:

(1) Whether or not there is a reasonable assurance of reemployment.

(2) Whether or not it is stated that the individual has no reasonable assurance of reemployment, that the individual should file a claim for benefits at the close of the academic year or term.

(3) If it is stated that the individual has reasonable assurance of reemployment, the written statement shall also inform the employee that he or she may file a claim for benefits and that the determination for eligibility for benefits is made by the Employment Development Department and not by the employer.

(4) If it is stated that the individual has reasonable assurance of reemployment, that the individual shall be entitled to a retroactive payment of benefits if the individual is not offered an opportunity to perform the services for the educational institution for the second of the academic years or terms, if the individual is otherwise eligible and he or she filed a claim for each week benefits are claimed, and if a claim for retroactive benefits is made no later than 30 days following the commencement of the second academic year or term.

SEC. 2.5. Section 1253.9 of the Unemployment Insurance Code is repealed.

SEC. 3. Section 1375.2 of the Unemployment Insurance Code is repealed.

SEC. 4. Chapter 5.5 (commencing with Section 1451) is added to Part 1 of Division 1 of the Unemployment Insurance Code, to read:

CHAPTER 5.5. BETWEEN TERMS UNEMPLOYMENT COMPENSATION FOR NONPROFESSIONAL EMPLOYEES OF STATE SPECIAL SCHOOLS

1451. Nonprofessional employees of the Fremont and Riverside campuses of the California School for the Deaf, the Fremont campus of the California School for the Blind, and the diagnostic schools for the neurologically handicapped located in Los Angeles, San Francisco, and Fresno, shall be eligible for benefits provided by this chapter, on the same terms and conditions as are specified by this part, Part 3 (commencing with Section 3501), and Part 4 (commencing with Section 4001), for all other individuals, except where inconsistent with the provisions of this chapter. Except where inconsistent with the provisions of this chapter, the provisions of this division and authorized regulations shall apply to any matter arising pursuant to this chapter.

1452. Notwithstanding Section 1253.3, between terms unemployment compensation benefits are payable by the Controller, from funds appropriated for support of the State Department of Education and allocated to the state special schools, upon authorization by the Employment Development Department to individuals who are eligible to receive these benefits under this chapter. These benefits shall only be paid for weeks of unemployment occurring between school terms and during an established and customary vacation period or holiday recess when other benefits are denied solely by reason of Section 1253.3.

1453. (a) There shall be transferred to the Employment Development Department from funds appropriated for support of the State Department of Education and allocated to the state special

schools, at the times and in the manner provided in subdivision (b), an amount equal to the additional cost to the Employment Development Department for added administrative work arising out of this chapter.

(b) The director shall determine the sums he or she estimates the department will be entitled to receive from the State Department of Education under this section for each fiscal year, reduced or increased by any sum by which he or she finds that his or her estimates for any prior fiscal year were greater or less than the amounts which were actually required. The sum of the amounts transferred or expended pursuant to Section 1452, subdivision (a), and this subdivision in any one fiscal year shall not exceed the amount appropriated in the then current fiscal year to the State Department of Education for the purposes of this chapter.

(c) The director may require from the State Department of Education such employment, wage, financial, statistical, or other information and reports, properly verified, as may be deemed necessary by the director to carry out his or her duties under this division, which shall be filed with the director at the time and in the manner prescribed by him or her.

(d) The director may tabulate and publish information obtained pursuant to this chapter in statistical form and may divulge the name of the employing unit.

(e) The State Department of Education shall provide each employee subject to this chapter, at the end of each school term, with written information advising the employee of benefit rights pursuant to this chapter.

1454. An individual who receives any unemployment compensation benefits otherwise payable irrespective of this chapter, including retroactive unemployment compensation benefits paid pursuant to subdivision (c) of Section 1253.3, who has received benefits under this chapter for the same period, shall be liable for repayment to the state of the amount of benefits paid under this chapter for that period.

SEC. 5. Section 4002 of the Unemployment Insurance Code is amended to read:

4002. (a) Except as otherwise provided, the provisions and definitions of Part 1 (commencing with Section 100) 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 federal-state extended benefits.

(b) Except as otherwise provided, subdivision (d) of Section 1253, and Sections 1030, 1032, 1254, 1277, 1281, 1327, 1328, 1329, 1330, and 1331 do not apply to this part.

(c) The provisions of Part 2 (commencing with Section 2601) of, and of Part 3 (commencing with Section 3501) do not apply to this part.

CHAPTER 1489

An act to amend Section 1547 of, and to add Section 11413 to, the Penal Code, relating to terrorizing, and making an appropriation therefor.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 1547 of the Penal Code is amended to read:

1547. (a) The Governor may offer a reward of not more than ten thousand dollars ($10,000), payable out of the General Fund, for information leading to the arrest and conviction of any of the following:

(1) Any convict who has escaped from a state prison, prison camp, prison farm, or the custody of any prison officer or employee or as provided in Section 3059, 4530, or 4531.

(2) Any person who has committed, or is charged with the commission of, an offense punishable with death.

(3) Any person engaged in the robbery or hijacking of, or any attempt to rob or hijack, any person upon or in charge of, in whole or in part, any public conveyance engaged at the time in carrying passengers within this state.

(4) Any person who kills, assaults with a deadly weapon, or inflicts serious bodily harm upon a police officer who is acting in the line of duty.

(5) Any person who has committed a crime involving the burning or bombing of public property, including any public hospital housed in a privately owned facility.

(6) Any person who has committed a crime involving the burning or bombing of any private hospital. A reward may be offered by the Governor in conjunction with such a crime only if a reward in conjunction with the same crime is offered by the hospital, or any other public or private donor on its behalf. The amount of the reward offered by the Governor shall not exceed the aggregate amount offered privately, or ten thousand dollars ($10,000), whichever is less. Nothing in this paragraph shall preclude a private hospital, or any public or private donor on its behalf, from offering a reward in an amount exceeding ten thousand dollars ($10,000). If a person providing information for a reward under this paragraph so requests, his or her name and address shall remain confidential. This confidentiality, however, shall not preclude or obstruct the investigations of law enforcement authorities.

(7) Any person who commits a violation of Section 11413.

(b) The reward shall be paid to the person giving the information, immediately upon the conviction of the person so arrested.

(c) As used in this section, "hijacking" means an unauthorized

person causing, or attempting to cause, by violence or threat of violence, a public conveyance to go to an unauthorized destination.

SEC. 2. Section 11413 is added to the Penal Code, to read:

11413. (a) Any person who explodes, ignites, or attempts to explode or ignite any destructive device or any explosive, or who commits arson, in or about any of the places listed in subdivision (b), for the purpose of terrorizing another or in reckless disregard of terrorizing another is guilty of a felony, and shall be punished by imprisonment in the state prison for three, five, or seven years and a fine not exceeding ten thousand dollars ($10,000).

(b) Subdivision (a) applies to the following places:

(1) Any health facility licensed under Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, or any place where medical care is provided by a licensed health care professional.

(2) Any church, temple, synagogue, or other place of worship.

(3) The buildings, offices, and meeting sites of organizations that counsel for or against abortion or among whose major activities are lobbying, publicizing, or organizing with respect to public or private issues relating to abortion.

(4) Any place at which a lecture, film-showing, or other private meeting or presentation that educates or propagates with respect to abortion practices or policies, whether on private property or at a meeting site authorized for specific use by a private group on public property, is taking place.

(c) As used in this section, "terrorizing" means to cause a person of ordinary emotions and sensibilities to fear for personal safety

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 1490

An act to amend Section 14671.2 of the Government Code, to amend Sections 50802 and 50805 of the Health and Safety Code, relating to housing, and making an appropriation therefor.

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

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

SECTION 1. Section 14671.2 of the Government Code is amended to read:

14671.2. Notwithstanding Section 14670, the Director of General

Services, with the consent of the state agency concerned and the approval of the governing body of any concerned local agency, may let for any period of time any real property or interest in real property which belongs to the state, when the director deems the letting serves a beneficial public purpose limited to the development of housing, including emergency shelters, or park and recreation facilities. The leases shall be let in accordance with procedures prescribed by the director which facilitate development of housing or park and recreation facilities when such use is compatible with current use and foreseeable future use of the property. All proposed leases shall be reviewed by the State Public Works Board. In all cases, however, at least 25 percent of the housing units developed on state property leased pursuant to this section shall be available for the term of the lease to moderate-income persons as defined by Section 50093 of the Health and Safety Code, 12.5 percent shall be available for the term of the lease to low-income persons as defined by Section 50093 of the Health and Safety Code, and 12.5 percent shall be available for the term of the lease to very low-income persons as defined by Section 50105 of the Health and Safety Code.

In letting leases pursuant to this section, the director shall: (1) give preference to projects which provide for more affordable units than required by the percentages specified in this section; (2) determine that the project is compatible with local planning goals and environmental objectives.

The director may enter into leases pursuant to this section at less than market value, provided that the cost of administering the lease is recovered. The Department of Housing and Community Development shall recommend to the Director of General Services a lease amount which will enable the provision of housing for persons of low and moderate income.

All leases executed pursuant to this section shall contain a recital that the director has found the letting serves the required beneficial public purpose and complies with all provisions of this section, which recital shall be conclusive in favor of lessees from the state and their mortgagees.

SEC. 2. Section 50802 of the Health and Safety Code is amended to read:

50802. (a) The department shall, in ranking and rating applications for grants, give priority to those applications which are the most cost effective, as determined by the department, in expanding and preserving the housing supply. The department shall adopt guidelines to govern the distribution of funds in accordance with the intent and provisions of this chapter.

(b) Those guidelines shall grant priority for the distribution of funds to eligible recipients who meet any of the following criteria:

(1) To eligible recipients who make a commitment to provide matching funds or in-kind contributions.

(2) To eligible recipients who make a commitment to utilize homeless adults to operate and maintain the shelters and who will

assist homeless persons in obtaining permanent shelter, job placement or other alternative sources of support, or both job placement and other alternative sources of support.

(3) To eligible recipients who make a commitment to provide opportunities to homeless adults who have mechanical or construction skills and who are able to assist in the maintenance or rehabilitation of shelters.

(4) To eligible recipients who form emergency resource groups for joint agency management.

(c) Those guidelines shall grant priority for the distribution of grant funds for operating expenses to eligible recipients who provide a job access telephone and a mailing address for homeless adults.

SEC. 2.5. Section 50802 of the Health and Safety Code is amended to read:

50802. (a) The department shall, in ranking and rating applications for grants, give priority to those applications which are the most cost effective, as determined by the department, in expanding and preserving the housing supply. The department shall adopt guidelines to govern the equitable distribution of funds in accordance with the intent and provisions of this chapter. The total amount of funds allocated to eligible recipients within each county shall be based upon a formula which takes into account the relative number of persons in poverty within each county as compared to the state as a whole. To the extent feasible when distributing funds, the department shall also take into account the relative number of homeless within each county as compared to the state as a whole. However, the department may use the distribution formula in effect on the effective date of the amendments to this section at the 1985–86 Regular Session of the Legislature until the necessary information is available on poverty and homelessness in each county.

(b) Those guidelines shall grant priority for the distribution of funds to eligible recipients who meet any of the following criteria:

(1) To eligible recipients who make a commitment to provide matching funds or in-kind contributions.

(2) To eligible recipients who make a commitment to utilize homeless adults to operate and maintain the shelters and who will assist homeless persons in obtaining permanent shelter, job placement or other alternative sources of support, or both job placement and other alternative sources of support.

(3) To eligible recipients who make a commitment to provide opportunities to homeless adults who have mechanical or construction skills and who are able to assist in the maintenance or rehabilitation of shelters.

(4) To eligible recipients who form emergency resource groups for joint agency management.

(c) Those guidelines shall grant priority for the distribution of grant funds for operating expenses to eligible recipients who provide a job access telephone and a mailing address for homeless adults.

SEC. 3. Section 50805 of the Health and Safety Code is amended

to read:

50805. (a) Grants awarded pursuant to this chapter may be used, with the approval of the department, to purchase, lease, renovate, repair, or equip buildings and sites for use as emergency shelters, to operate those emergency shelters, and to administer emergency shelter programs.

(b) Any eligible recipient awarded a grant pursuant to this chapter shall be required to use the grant funds to provide emergency shelter to needy persons, to practice nondiscrimination in the provision of the shelter, to use grant funds to supplement, not supplant, other state and local programs providing social services, health care, and housing assistance, and to meet any other qualifications the department finds necessary to carry out the intent of this chapter.

(c) The department shall ensure all of the following:

(1) That an eligible recipient does not utilize grant funds to cover more than 80 percent of the operating expenses of the recipient.

(2) That not more than 5 percent of a grant awarded to an eligible recipient pursuant to this chapter is expended for administrative expenses.

(3) That not more than 30 percent of the moneys in the Emergency Housing and Assistance Fund are expended during any fiscal year for grants to cover operating expenses.

(d) (1) The department shall establish, by regulation, the types of expenses which are included within the meaning of operating and administrative expenses for purposes of this chapter.

(2) At a minimum, those regulations shall include, but not be limited to, the following types of operating and administrative expenses:

(A) Operating expenses relating to supervising and counseling clients in obtaining permanent shelter, job placement, and other sources of support.

(B) Administrative expenses relating to telephone charges, office space rent, salary and benefits for administrative staff personnel, office supplies, photocopying and printing, and mail and accounting services.

SEC. 4. Section 2.5 of this bill incorporates amendments to Section 50802 of the Health and Safety Code proposed by both this bill and AB 1736. 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 50802 of the Health and Safety Code, and (3) this bill is enacted after AB 1736, in which case Section 50802 of the Health and Safety Code, as amended by AB 1736, shall remain operative only until the operative date of this bill, at which time Section 2.5 of this bill shall become operative, and Section 2 of this bill shall not become operative.

CHAPTER 1491

An act to add Chapter 12 (commencing with Section 8870) to Division 1 of Title 2 of the Government Code, relating to seismic safety, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Chapter 12 (commencing with Section 8870) is added to Division 1 of Title 2 of the Government Code, to read:

CHAPTER 12. CALIFORNIA EARTHQUAKE HAZARDS REDUCTION ACT

8870. The Legislature finds and declares as follows:

(a) California is situated on the rim of the Circum-Pacific seismic belt and it is inevitable that earthquakes along the state's numerous faults will cause extensive property damage and endanger the lives of people nearby. The risk to life and property is especially significant near the San Andreas fault where rapid growth and population increases have occurred in our largest urban centers over the last several decades. With each passing year, the potential for an earthquake-caused catastrophe increases as California's growth continues and the time lengthens since the last great earthquake.

(b) Earthquakes have caused and can cause in the future enormous loss of life, injury, destruction of property, and economic and social disruption. With respect to future earthquakes, that loss, injury, destruction, and disruption can be reduced substantially by developing and implementing earthquake hazards reduction measures, including, but not limited to, the following:

(1) Improving design and construction methods and practices.

(2) Rehabilitating hazardous buildings.

(3) Coordinating emergency planning for response by the government and private sectors.

(4) Implementing land use and redevelopment planning.

(5) Developing public information and education programs.

(6) Improving emergency response capabilities and emergency management systems.

(7) Developing long-term social and economic recovery strategies.

(8) Upgrading the strong motion instrumentation system.

(9) Improving basic research of physical and social earthquake phenomena.

(c) While the major responsibility for dealing with earthquakes before and after they happen is firmly fixed with local government,

state government also has fundamental responsibilities to take all reasonable measures to reduce the seismic hazards to which the citizens of California are exposed. The state should assume a leadership role by influencing the direction of existing and future national earthquake hazard reduction programs and should serve as a model for local hazard reduction measures.

(d) Earthquake hazard reduction measures often benefit many state programs and bring about improvements in buildings, dams, transportation facilities, communications, fire safety, toxic materials handling, and emergency response preparations.

(e) Over the past 10 years, numerous studies have been completed by the Seismic Safety Commission, the Office of Emergency Services, the California Division of Mines and Geology, the Governor's Earthquake Task Force, the federal government, and private sector organizations recommending improvements in hazard mitigation programs to reduce the earthquake threat in California. Implementing recommendations from these studies will reduce earthquake hazards, improve earthquake disaster response, and guide reconstruction and recovery efforts.

8871. This chapter shall be known and may be cited as the California Earthquake Hazards Reduction Act of 1986.

8872. (a) There is hereby established a coordinated program pursuant to which the state shall implement new and expanded activities to significantly reduce the earthquake threat to its citizens. This program, to be known as the California Earthquake Hazard Reduction Program, shall be prepared and administered by the Seismic Safety Commission pursuant to its existing authority under Section 8897.

(b) The program set forth in subdivision (a) shall specify priorities, funding sources, and amounts, schedules, and other resources needed to significantly reduce earthquake hazards statewide by January 1, 2000. The achievement of this goal shall be undertaken with the following objectives:

(1) Mitigation. The reduction of the earthquake hazard to acceptable levels through significant reduction in the number of hazardous buildings and the expansion of scientific and engineering studies.

(2) Preparedness. The increase in the level of preparedness statewide by appropriate measures to deal with special issues, such as earthquake prediction, hazardous materials, critical facilities, and disaster preparedness plans for all major population centers, and education, training, and public information.

(3) Response. The enhancement of the state's capability to respond to a major earthquake disaster by giving priority to increased coordination and integration of federal, state, and local plans and preparedness activities, improvements in the statewide communication system, creation of a state emergency coordination center or centers, and greater automation of emergency management data.

(4) Recovery. The development of management systems for major earthquake recovery, the enhancement of resources management, and the minimization of high unemployment, multiple business failures, tax base erosion, and associated monetary and financial issues critical to the restoration of California's economy and public services.

(c) The state's existing seismic safety activities are currently administered by over two dozen separate agencies. Responsibility for administering these activities shall remain with these agencies. These existing activities shall continue and shall be incorporated into the coordinated program established under subdivision (a).

(d) The program shall consist of a series of five-year programs and each five-year program shall be revised by the Seismic Safety Commission annually and submitted to the Governor and the Legislature. Each revision shall include a finding on the state's progress toward the goal stated in subdivision (b).

(e) The immediate steps to be undertaken by the commission shall include the performance of existing activities provided in the budget prepared by the Governor for the 1985–86 fiscal year and the Budget Act of 1985 and the preparation of the first five-year program.

(f) The first five-year program document shall be completed by September 1, 1986, and shall include specific measures and funding needed for adequate progress towards the state's earthquake safety goals by January 1, 2000. This program and subsequent programs shall cover a five-year implementation period and shall recommend any necessary statutory changes for program implementation.

8873. (a) The Office of Emergency Services shall establish an interim state operations center in southern California to coordinate response to a major earthquake, the office shall also develop an operational communications plan for the center based upon an inventory of current communications capabilities and an assessment of structural vulnerabilities.

(b) The office shall undertake a design analysis regarding construction of a permanent state operations center in southern California, including an evaluation of telecommunications and information technology systems for emergency management functions.

(c) All appropriations for the purposes of subdivision (a) or (b) shall be reviewed by the Department of Finance prior to obligation of funds.

8874. The commission shall prepare the California Earthquake Hazard Reduction Program, in consultation with the Office of Emergency Services, the Division of Mines and Geology in the Department of Conservation, the Office of the State Architect, the Emergency Medical Services Authority, the University of California and other appropriate institutions of higher learning, the California National Guard, the Department of Finance, other appropriate state and local agencies, the private sector, volunteer groups, and the Legislature.

The commission may hold public hearings or joint hearings with other groups and conduct other activities as necessary for the development of the program.

SEC. 2. The sum of six hundred thousand dollars ($600,000) is hereby appropriated from the General Fund for expenditure as follows:

(a) One hundred fifty thousand dollars ($150,000) to the Seismic Safety Commission to prepare the California Earthquake Hazard Reduction Program.

(b) Three hundred twenty-five thousand dollars ($325,000) to the Office of Emergency Services to carry out subdivision (a) of Section 8873 of the Government Code.

(c) One hundred twenty-five thousand dollars ($125,000) to the Office of Emergency Services to carry out subdivision (b) of Section 8873 of the Government Code.

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

In order to reduce threats to the safety of life and property in California, critical improvements and capabilities found necessary in recent earthquake hazard reports and studies to ensure the economic, social, and environmental well-being of the citizens of this state must be implemented at the earliest possible time. In order that the long-term improvement program contemplated by this act to implement this goal can be commenced immediately, it is necessary that this act go into immediate effect.

CHAPTER 1492

An act to add Section 917.15 to the Code of Civil Procedure, relating to hazardous substances.

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

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

SECTION 1. Section 917.15 is added to the Code of Civil Procedure, to read:

917.15. The perfecting of an appeal shall not stay enforcement of the judgment or order in the trial court if the judgment or order appealed from, or the administrative order which is the subject of the trial court proceeding, was issued pursuant to either of the following:

(a) Subdivision (a) of Section 25358.3 of the Health and Safety Code and ordered a responsible party to take appropriate removal or remedial actions in response to a release or a threatened release of a hazardous substance.

(b) Section 25181 of the Health and Safety Code and ordered the party to comply with Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code or any rule, regulation, permit, covenant, standard, requirement, or order issued, adopted or executed pursuant to that Chapter 6.5.

CHAPTER 1493

An act to amend Section 230.7 of the Civil Code, relating to adoption.

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

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

SECTION 1. Section 230.7 of the Civil Code is amended to read:

230.7. (a) Notwithstanding any other provision of law, the State Department of Social Services and any licensed adoption agency shall release any letters, photographs, or other items of personal property in their possession to any adoptee, birth parent, or adoptive parent, upon written request. The material may be requested by any of the following parties:

(1) The adoptee, provided that he or she has attained the age of 18 years.

(2) The adoptive parent or parents, on behalf of an adoptee under the age of 18 years, as long as instructions to the contrary have not been made by the depositor.

(3) The birth parent or parents.

Notwithstanding any other provision of law, all identifying names and addresses shall be deleted from the letters, photographs, or items of personal property before delivery to the requester.

(b) Any letters, photographs, or other items of personal property deposited on or after January 1, 1985, shall be accompanied by a release form or similar document signed by the person depositing the material, specifying to whom the material may be released. At its discretion, the department or licensed adoption agency shall have the right to refuse for deposit items of personal property that, because of value or bulk, would pose storage problems.

(c) Notwithstanding subdivision (a), only the following photographs deposited before January 1, 1985, shall be released:

(1) Photographs of the adoptee which have been requested by the adoptee.

(2) Photographs which have been deposited by the adoptee, the adoptive parent or parents, or the birth parent or parents, and for which there is a letter or other document on file indicating that person's consent to the release of the photographs.

(d) The department and licensed adoption agencies may charge

a fee to cover the actual costs of any services required by this section in excess of normal postadoptive services provided by the department or agency. The department shall develop a fee schedule that shall be implemented by the department and licensed adoption agencies in assessing charges to the person who deposits the material or the person to whom the material is released. The fee may be waived by the department or licensed adoption agencies in cases in which it is established that a financial hardship exists.

(e) As used in this section, "photograph" means a photograph of the person depositing the photograph or the person making the request for the release.

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 1494

An act to add Section 12980 to the Insurance Code, and to amend Section 16072 of, and to add Section 16076 to, the Vehicle Code, relating to financial responsibility, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

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

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

SECTION 1. Section 12980 is added to the Insurance Code, to read:

12980. The Financial Responsibility Penalty Account is hereby created in the General Fund. Moneys in the account shall be expended, upon appropriation therefor, for matters including, but not limited to, automobile insurance and financial responsibility of vehicle owners and operators.

SEC. 2. Section 16072 of the Vehicle Code is amended to read:

16072. (a) The suspension of the driving privilege of a person as provided in Section 16070 shall not be terminated until one year has elapsed from the date of actual commencement of the suspension and until the person files proof of financial responsibility, provided that the suspension shall be reinstated if the person fails to maintain proof of financial responsibility for three years. However, in lieu of suspending a person's driving privilege pursuant to this section, the department may, upon application, restrict the person's driving privilege to necessary travel to and from that person's place of employment and to driving that is required in the person's course of employment, when driving a motor vehicle is necessary in order to

perform the duties of the person's primary employment, if the person files and thereafter maintains proof of financial responsibility pursuant to Section 16021 and pays a penalty fee to the department of two hundred fifty dollars ($250). The restriction shall remain in effect for the period of suspension required by this section. If proof of financial responsibility is established by the filing of evidence that the person procured an automobile or motor vehicle liability policy or bond, and coverage under that policy or bond terminates, the insurer or surety shall inform the department of the date of termination.

(b) The driving privilege shall not be suspended under Section 16070, and, if a suspension has been imposed and is in effect under Section 16070, that suspension shall be terminated, if the driving privilege is suspended under Section 16370 or 16381 as the result of a judgment arising out of the accident for which proof of financial responsibility was required to be established. The department may suspend or reimpose the suspension of the driving privilege of a person under Section 16070 if the suspension under Section 16370 or 16381 is later set aside for a reason other than that the person has satisfied the judgment in full or to the extent provided in Chapter 2 (commencing with Section 16250) and has given proof of ability to respond in damages as provided in Chapter 3 (commencing with Section 16430).

(c) Notwithstanding Chapter 2 (commencing with Section 42200) of Division 18, all revenues derived from the penalty fees provided in subdivision (a) shall be deposited in the Financial Responsibility Penalty Account in the General Fund. The balance in this fund on July 1, 1986, and each successive July 1 thereafter, which is not subject to appropriation as provided in Section 12980 of the Insurance Code, shall revert to the General Fund.

SEC. 3. Section 16076 is added to the Vehicle Code, to read:

16076. The department shall notify every person whose driving privilege is currently suspended on January 1, 1986, or thereafter is suspended, pursuant to Section 16370, of the restricted driving privilege authorized under Section 16072.

This section shall be known and may be cited as the Mello-McAlister Restricted Employment Driving Privilege Act.

SEC. 4. (a) The sum of one hundred thousand dollars ($100,000) is hereby appropriated from the Financial Responsibility Penalty Account in the General Fund to the Department of Insurance for allocation for the following purposes:

(1) An amount not to exceed fifty thousand dollars ($50,000) for expenditure in the 1985–86 fiscal year for investigative services pursuant to complaints by licensees of the Department of Insurance under Senate Bill 10 of the 1985–86 Regular Session of the Legislature.

This paragraph shall become operative only if Senate Bill 10 of the 1985–86 Regular Session is enacted and becomes effective on or before January 1, 1986.

(2) An amount not to exceed fifty thousand dollars ($50,000) to be allocated to the Department of Motor Vehicles for its administrative costs in performing the notification required by Section 16076 of the Vehicle Code, upon certification of those costs by the Director of Motor Vehicles.

(b) Any amount of the appropriation in this section which does not become operative or which has not been encumbered on or before July 1, 1986, shall revert to the Financial Responsibility Penalty Account in the General Fund.

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 provide necessary transportation for persons gainfully employed and encourage drivers to provide financial responsibility at the earliest possible time, it is necessary that this statute take effect immediately.

CHAPTER 1495

An act to amend Sections 20131, 21235, and 21236 of, and to add Section 21237 to, the Government Code, relating to the Public Employees' Retirement System, and making an appropriation therefor.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 20131 of the Government Code is amended to read:

20131. The board shall credit all contributions of members and retired members in the retirement fund with interest at the current annual interest rate, compounded at each June 30th. The board may set the current annual interest rate at the level which provides for the maintenance of the Investment Dividend Disbursement Account and the Purchasing Power Accounts as specified in Section 21235, 21236, and 21237. For the purposes of this section, the current annual interest rate shall be not less than the current actuarial interest rate. In crediting interest for any fiscal year to contributions of members made during that year, the board may apply one interest rate to the total of such contributions made through the month next preceding the date through which interest is credited, under the assumption that such contributions were made in equal monthly amounts from the July 1st next preceding, to said month, both inclusive.

This section shall become operative on July 1, 1983.

SEC. 2. Section 21235 of the Government Code is amended to read:

21235. (a) The board shall establish an Investment Dividend Disbursement Account in the retirement fund consisting of that amount of the earnings of the retirement fund which remains after the sequential application of Sections 20202.5, 20203, 20131.1, and 20131. The board shall establish in the retirement fund such Purchasing Power Accounts, based on relative purchasing power, as the board deems necessary, which Purchasing Power Accounts shall consist of the amount of earnings of the retirement fund determined pursuant to Section 21237.

This subdivision shall become operative on July 1, 1982, and shall remain operative only until January 1, 1994, when it shall cease to have any force or effect.

(b) The Investment Dividend Disbursement Account may be utilized, as specified in subdivision (e), to increase all monthly allowances paid by the system to an amount equal to a maximum of 75 percent of the purchasing power, as determined by the board, of the initial monthly allowances that were received by every retired person or survivor or beneficiary of a state, school or local member or retired person who was eligible to receive any allowance at the end of each fiscal year. If sufficient funds are not available within a Purchasing Power Account to adjust allowances to a maximum of 75 percent of purchasing power, the board may transfer funds maintained in the Investment Dividend Disbursement Account to the Purchasing Power Account to provide for the increases authorized by this section. If sufficient funds are not available in any particular Purchasing Power Accounts to adjust allowances to a maximum of 75 percent of purchasing power, the board may adjust allowances to eligible recipients by a lesser amount. The board may, for reasons of insufficient funds, determine that no increase under this section shall be made.

(c) The amount specified in subdivision (a) is hereby appropriated from the Investment Dividend Disbursement Account and from such Purchasing Power Account as have been established to the board without regard to fiscal years. Whenever the board determines that there are sufficient funds the board shall apply those funds to the increases authorized by this section.

(d) The board shall inform each recipient of benefits under subdivision (b) that the increases are not cumulative, not part of the base retirement allowance, and may be available for only a limited period of time and that the board may discontinue the increases.

(e) The board, on January 1, 1984, and, upon the commencement of each quarter thereafter, shall pay the benefit provided by this section for the succeeding quarter.

SEC. 3. Section 21236 of the Government Code is amended to read:

21236. (a) The board shall pay, on October 1, 1984, and at the beginning of each succeeding calendar year, from any funds in a

Purchasing Power Account not then needed for the purposes of Section 21235, the amount required for the purposes of this section, which is appropriated to the board without regard to fiscal years, for use for the sole purpose of providing quarterly increases from October 1, 1984, through December 31, 1993, as specified in subdivision (d) in the monthly allowance of every person who was eligible to receive the 10 percent quarterly increase provided by Section 21232 on September 30, 1984.

(b) Whenever the board determines that there are sufficient funds in a Purchasing Power Account, the board shall apply those funds to the increases authorized by this section. If the funds in a Purchasing Power Account are not sufficient to pay the increases prescribed in subdivision (d), the board shall proportionately reduce all payments.

(c) The board shall inform each recipient of benefits under subdivision (a) that the increases are not cumulative and shall not be included in their base allowance and may be available for only a limited time.

(d) The total quarterly increases payable for the period from October 1, 1984, through December 31, 1993, shall be the difference between the July 1, 1984, 10 percent quarterly payment under Section 21232 and the amount payable under Section 21235 at the time a payment under this section would be made. Whenever the amount payable under Section 21235 is equal to or greater than the amount payable under Section 21232 on July 1, 1984, there shall be no amount payable under this section.

(e) This section shall remain operative only until January 1, 1994, when it shall cease to have any force or effect.

SEC. 4. Section 21237 is added to the Government Code, to read:

21237. (a) Notwithstanding any other provision of this part, effective January 1, 1986, the Investment Dividend Disbursement Account shall consist of an amount not to exceed the amount of the funds transferred from the Reserve for Deficiencies to the Investment Dividend Disbursement Account on June 30, 1983, less the amount of investment earnings attributable to member accounts for fiscal year 1982–83, plus future account earnings. The board shall annually credit interest to the account at the same crediting rate used to credit retired member reserves. The board may utilize the earnings on the account attributable to the period from June 30, 1983, through June 30, 1985, to credit contributions of members in the retirement fund. That additional interest crediting shall not exceed one percent of the balances in member accounts. Transfers authorized by the board pursuant to subdivision (b) of Section 21235 shall reduce the maximum allowable account balance by the amount transferred.

(b) All other funds available pursuant to Section 21235 shall be retained in Purchasing Power Accounts. The board shall annually transfer from the Purchasing Power Accounts to the appropriate retired member accounts, as determined by the board, any funds in

excess of the amounts disbursed pursuant to Sections 21235 and 21236 in the two previous fiscal years, as provided in subdivision (c).

(c) The board shall annually determine, pursuant to subdivision (c) of Section 21221, the extent to which the purchasing power of benefits provided by the system have decreased. The board shall annually transfer from the Purchasing Power Accounts, as provided in subdivision (b), any funds in excess of those disbursed pursuant to Sections 21235 and 21236 for the following periods:

(1) If purchasing power has decreased 5 percent or less, for the two previous fiscal years.

(2) If purchasing power has decreased more than 5, but less than 7 percent, for the two and one-half previous fiscal years.

(3) If purchasing power has decreased 7 percent or more, for the previous three fiscal years.

(d) In establishing the initial Purchasing Power Account balances, the board shall include disbursements pursuant to Section 21235 only.

SEC. 5. The Legislature finds and declares that the provisions of this act extend benefits provided under an existing program and, therefore, do not constitute a mandate on local contracting agencies of the Public Employees' Retirement System.

CHAPTER 1496

An act to amend Section 3902 of the Business and Professions Code, to amend Sections 437.10, 441.21, 1250, 1250.1, 1265, 1267.8, 1276.5, and 1280 of, and to add Sections 441.22, 1267.9, and 1275.3 to, the Health and Safety Code, relating to health facilities.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 3902 of the Business and Professions Code is amended to read:

3902. "Nursing home" means any institution, facility, place, building or agency, or portion thereof, defined and licensed as a skilled nursing facility or intermediate care facility, except an intermediate care facility/developmentally disabled habilitative or an intermediate care facility/developmentally disabled—nursing, in Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

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

437.10. Except as otherwise exempted by any other provision of law, projects requiring a certificate of need issued by the Office of Statewide Health Planning and Development are the following:

(a) Construction of a new health facility, relocation of a health

facility or specialty clinic on a site which is not the same site or adjacent thereto, the increase of bed capacity in an existing health facility, the conversion of an entire existing health facility from one license category to another, or the conversion of a health facility's existing beds from any bed classification set forth in Section 1250.1 to skilled nursing beds, psychiatric beds, or intermediate care beds, and the conversion of skilled nursing beds, psychiatric beds, or intermediate care beds to any other bed classification set forth in Section 1250.1, except for skilled nursing beds or intermediate care beds licensed as of March 1, 1983, as part of a general acute care hospital. The conversion may not exceed during any three-year period 5 percent of the existing beds of the bed classification to which the conversion is made.

A health facility may use beds in one bed classification which, pursuant to the facility's license, have been designated in another bed classification, if all of these bed classification changes do not at any time exceed 5 percent of the total number of the facility's beds as set forth by the facility's license and if use meets the requirements of Chapter 2 (commencing with Section 1250) of Division 2. In addition, a facility may use an additional 5 percent of its beds in this manner if the director finds that seasonal fluctuations justify it.

For purposes of this subdivision, "adjacent," means real property within a 400-yard radius of the site on which a health facility or specialty clinic currently exists.

(b) Establishment of a new specialty clinic, as defined in paragraphs (1) and (3) of subdivision (b) of Section 1204, a project by a health facility for expanded outpatient surgical capacity, the conversion of an existing primary care clinic to a specialty clinic, or the conversion of an existing specialty clinic to a different category of specialty-clinic licensure. It does not constitute a project and no certificate of need is required for the establishment of a primary care clinic, as defined in subdivision (a) of Section 1204, the conversion of an existing specialty clinic to a primary care clinic, or the conversion of an existing primary care clinic to a different category of primary-care-clinic licensure. Any capital expenditure involved in the establishment of a primary care clinic also does not constitute a project, except as provided in subdivision (d).

(c) The establishment of a new special service delineated in subdivision (a), (b), (c), (e), (f), (g), or (h) of Section 1255, or the establishment by a specialty clinic, as defined in paragraphs (1) and (3) of subdivision (b) of Section 1204, of a new special service identified by or pursuant to Section 1203.

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

as determined by the office, shall be considered together.

(e) (1) Any project requiring a capital expenditure for a specialty clinic, as defined in paragraphs (1) and (3) of subdivision (b) of Section 1204, or for the services, equipment or modernization of a specialty clinic in excess of one million dollars ($1,000,000) in the current fiscal year or cumulation to an expenditure of one million dollars ($1,000,000) in the same fiscal year or subsequent fiscal years for a single project.

(2) The threshold exemptions from certificate-of-need requirements provided for in this subdivision do not apply to projects for expanded outpatient surgical capacity.

(3) For the purposes of this subdivision, "capital expenditure" means any of the following:

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

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

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

(4) "Capital expenditure" includes the total cost of the proposed project as certified by a licensed architect or engineer based on preliminary plans or specifications and concurred in by the state department.

(5) For the purposes of this subdivision, "project" does not include the purchase of real property for future use or the transfer

of ownership, in whole or part, of an existing specialty clinic or the acquisition of all or substantially all of the assets or stock thereof, or the construction, modernization, purchase, lease, or other acquisition of parking lots or parking structures, telephone systems, and nonclinical data-processing systems.

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

(f) Except as provided in subdivision (g), only those projects where 25 percent or less of the patients are covered by prepaid health care.

(g) Projects otherwise subject to review under subdivision (a) which are for the addition of new licensed skilled nursing beds by construction or conversion, regardless of the percentage of patients served who are covered by prepaid health care.

(h) (1) Except as provided in paragraph (2), the office shall annually adjust the dollar thresholds set forth in subdivisions (d) and (e) to reflect changes in the cost of living, as determined by the Department of Finance, using 1981 as the base year.

(2) Notwithstanding the amount of the dollar thresholds specified in paragraph (1), in the event Congress increases or repeals the amount or amounts of the thresholds, the dollar thresholds set forth in subdivisions (d) and (e) shall be the highest amount or amounts permitted by Public Law 93-641, as amended, or one million dollars ($1,000,000), whichever is less, on the date congressional action is effective.

(i) This section is not applicable to an intermediate care facility/developmentally disabled habilitative or an intermediate care facility/developmentally disabled—nursing.

SEC. 2.5. Section 441.21 of the Health and Safety Code is amended to read:

441.21. Intermediate care facilities/developmentally disabled habilitative, as defined in subdivision (a) of Section 1250, shall not be subject to the Health Data Advisory Council Consolidation Act (Part 1.8 (commencing with Section 443)).

This section shall remain in effect until January 1, 1987, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1987, deletes or extends such date.

SEC. 3. Section 441.22 is added to the Health and Safety Code, to read:

441.22. Intermediate care facilities/developmentally disabled—nursing, as defined in subdivision (h) of Section 1250, shall not be subject to the Health Data and Advisory Council Consolidation Act (Part 1.8 (commencing with Section 443)).

SEC. 4. Section 1250 of the Health and Safety Code is amended to read:

1250. As used in this chapter, "health facility" means any facility, place, or building which is organized, maintained, and operated for

the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which the persons are admitted for a 24-hour stay or longer, and includes the following types:

(a) "General acute care hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services. A general acute care hospital may include more than one physical plant maintained and operated on separate premises as provided in Section 1250.8. A general acute care hospital which exclusively provides acute medical rehabilitation center services, including at least physical therapy, occupational therapy, and speech therapy, may provide for the required surgical and anesthesia services through a contract with another acute care hospital. In addition, a general acute care hospital which, on July 1, 1983, provided required surgical and anesthesia services through a contract or agreement with another acute care hospital may continue to provide these surgical and anesthesia services through a contract or agreement with an acute care hospital.

(b) "Acute psychiatric hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care for mentally disordered, incompetent, or other patients referred to in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code, including the following basic services: medical, nursing, rehabilitative, pharmacy, and dietary services.

(c) "Skilled nursing facility" means a health facility which provides skilled nursing care and supportive care to patients whose primary need is for availability of skilled nursing care on an extended basis.

(d) "Intermediate care facility" means a health facility which provides inpatient care to ambulatory or nonambulatory patients who have recurring need for skilled nursing supervision and need supportive care, but who do not require availability of continuous skilled nursing care.

(e) "Intermediate care facility/developmentally disabled habilitative" means a facility with a capacity of four to 15 beds which provides 24-hour personal care, habilitation, developmental, and supportive health services to 15 or fewer developmentally disabled persons who have intermittent recurring needs for nursing services, but have been certified by a physician as not requiring availability of continuous skilled nursing care.

(f) "Special hospital" means a health facility having a duly

constituted governing body with overall administrative and professional responsibility and an organized medical or dental staff which provides inpatient or outpatient care in dentistry or maternity.

(g) "Intermediate care facility/developmentally disabled" means a facility which provides 24-hour personal care, habilitation, developmental, and supportive health services to developmentally disabled clients whose primary need is for developmental services and who have a recurring but intermittent need for skilled nursing services.

(h) "Intermediate care facility/developmentally disabled—nursing" means a facility with a capacity of four to six beds which provides 24-hour personal care, developmental services, and nursing supervision for developmentally disabled persons who have intermittent recurring needs for skilled nursing care but have been certified by a physician as not requiring continuous skilled nursing care. The facility shall serve medically fragile persons who have developmental disabilities or demonstrate significant developmental delay that may lead to a developmental disability if not treated.

SEC. 5. Section 1250.1 of the Health and Safety Code is amended to read:

1250.1. The state department shall adopt regulations which define the following bed classifications for health facilities:

(a) General acute care,

(b) General acute care rehabilitation,

(c) Skilled nursing,

(d) Intermediate care—developmental disabilities,

(e) Intermediate care—other,

(f) Acute psychiatric,

(g) Specialized care, with respect to special hospitals only,

(h) Chemical dependency recovery,

(i) Intermediate care facility/developmentally disabled habilitative,

(j) Intermediate care facility/developmentally disabled—nursing.

Except as provided in Section 1253.1, beds classified as intermediate care beds, on September 27, 1978, shall be reclassified by the state department as intermediate care—other. This reclassification shall not constitute a "project" within the meaning of Section 437.10 and shall not be subject to any requirement for a certificate of need under Part 1.5 (commencing with Section 437) of Division 1, and regulations of the state department governing intermediate care prior to such effective date shall continue to be applicable to the intermediate care—other classification unless and until amended or repealed by the state department.

SEC. 6. Section 1265 of the Health and Safety Code is amended to read:

1265. Any person, political subdivision of the state, or governmental agency desiring a license for a health facility or

approval for a special service under this chapter shall file with the state department a verified application on forms prescribed and furnished by the state department, containing all of the following:

(a) The name of the applicant and, if an individual, whether the applicant has attained the age of 18 years.

(b) The type of facility or health facility.

(c) The location thereof.

(d) The name of the person in charge thereof.

(e) Evidence satisfactory to the state department that the applicant is of reputable and responsible character. If applicant is a firm, association, organization, partnership, business trust, corporation, or company, like evidence shall be submitted as to the members or shareholders thereof, and the person in charge of the health facility for which application for license is made. If the applicant is a political subdivision of the state or other governmental agency, like evidence shall be submitted as to the person in charge of the health facility for which application for license is made.

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

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

(h) Upon submission of an application to the state department by an intermediate care facility/developmentally disabled habilitative or an intermediate care facility/developmentally disabled—nursing, the application shall include a statement of need signed by the chairperson of the area board pursuant to Chapter 4 (commencing with Section 4570) of Division 4.5 of the Welfare and Institutions Code. In the event the area board has not provided the statement of need within 30 days of receipt of the request from the applicant, the state department may process the application for license without the statement.

SEC. 7. Section 1267.8 of the Health and Safety Code is amended to read:

1267.8. (a) An intermediate care facility/developmentally disabled habilitative or an intermediate care facility/developmentally disabled—nursing shall meet the same fire safety standards adopted by the State Fire Marshal pursuant to Sections 13113, 13113.5, 13143, and 13143.6 that apply to community care facilities, as defined in Section 1502, of similar size and with residents of similar age and ambulatory status. No other state or local regulations relating to fire safety shall apply to these facilities and the requirements specified in this section shall be uniformly enforced by state and local fire authorities.

(b) An intermediate care facility/developmentally disabled habilitative or an intermediate care facility/developmentally disabled—nursing shall meet the same seismic safety requirements applied to community care facilities of similar size with residents of

similar age and ambulatory status. No additional requirements relating to seismic safety shall apply to such facilities.

(c) Whether or not unrelated persons are living together, an intermediate care facility/developmentally disabled habilitative which serves six or fewer persons or an intermediate care facility/developmentally disabled—nursing shall be considered a residential use of property for the purposes of this article. In addition, the residents and operators of the facility shall be considered a family for the purposes of any law or zoning ordinance which is related to the residential use of property pursuant to this article.

For the purposes of all local ordinances, an intermediate care facility/developmentally disabled habilitative which serves six or fewer persons or an intermediate care facility/developmentally disabled—nursing shall not be included within the definition of a boarding house, rooming house, institution or home for the care of minors, the aged, or the mentally infirm, foster care home, guest home, rest home, sanitarium, mental hygiene home, or other similar term which implies that the intermediate care facility/developmentally disabled habilitative or intermediate care facility/developmentally disabled—nursing is a business run for profit or differs in any other way from a single-family residence.

This section does not forbid any city, county, or other local public entity from placing restrictions on building heights, setback, lot dimensions, or placement of signs of an intermediate care facility/developmentally disabled habilitative which serves six or fewer persons or an intermediate care facility/developmentally disabled—nursing as long as such restrictions are identical to those applied to other single-family residences.

This section does not forbid the application to an intermediate care facility/developmentally disabled habilitative or an intermediate care facility/developmentally disabled—nursing of any local ordinance which deals with health and safety, building standards, environmental impact standards, or any other matter within the jurisdiction of a local public entity, as long as that ordinance does not distinguish intermediate care facility/developmentally disabled habilitative which serves six or fewer persons or an intermediate care facility/developmentally disabled—nursing from other single-family dwellings and that the ordinance does not distinguish residents of the intermediate care facility/developmentally disabled habilitative or intermediate care facility/developmentally disabled—nursing from persons who reside in other single-family dwellings.

No conditional use permit, zoning variance, or other zoning clearance shall be required of an intermediate care facility/developmentally disabled habilitative which serves six or fewer persons or an intermediate care facility/developmentally disabled—nursing which is not required of a single-family residence in the same zone.

Use of a single-family dwelling for purposes of an intermediate care facility/developmentally disabled habilitative serving six or

fewer persons or an intermediate care facility/developmentally disabled—nursing shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) of Division 13 or local building codes. However, nothing in this section supersedes Section 13143 to the extent these provisions are applicable to intermediate care facility/developmentally disabled habilitative providing care for six or fewer residents or an intermediate care facility/developmentally disabled—nursing.

SEC. 8. Section 1267.9 is added to the Health and Safety Code, to read:

1267.9. (a) The Legislature hereby declares it to be the policy of the state to prevent overconcentrations of intermediate care facilities/developmentally disabled habilitative or intermediate care facilities/developmentally disabled—nursing which impair the integrity of residential neighborhoods. Therefore, the director shall deny an application for a new intermediate care facility/developmentally disabled habilitative license or a new intermediate care facility/developmentally disabled—nursing license, if the director determines that the location is in such proximity to an existing intermediate care facility/developmentally disabled habilitative or an intermediate care facility/developmentally disabled—nursing as would result in overconcentration.

(b) As used in this section, "overconcentration" means that if a new license is issued, there will be intermediate care facilities/developmentally disabled habilitative, intermediate care facilities/developmentally disabled—nursing, or residential care facilities as defined in Section 1502 which are separated by a distance of less than 300 feet, as measured from any point upon the outside walls of the structures housing such facilities. Based on special local needs and conditions, the director may approve a separation distance of less than 300 feet with the approval of the city or county in which the proposed facility will be located.

(c) At least 45 days prior to approving any application for a new intermediate care facility/developmentally disabled habilitative or a new intermediate care facility/developmentally disabled—nursing, the director shall notify, in writing, the city or county planning authority in which the facility will be located, of the proposed location of the facility.

(d) Any city or county may request denial of the license applied for on the basis of overconcentration of intermediate care facilities/developmentally disabled habilitative or intermediate care facilities/developmentally disabled—nursing.

(e) Nothing in this section authorizes the director, on the basis of overconcentration, to refuse to renew an intermediate care facility/developmentally disabled habilitative license or an intermediate care facility/developmentally disabled—nursing license or to refuse to grant a license upon a change of ownership of an existing intermediate care facility/developmentally disabled

habilitative or intermediate care facility/developmentally disabled—nursing where there is no change in the location of the facility.

(f) Foster family homes and residential care facilities for the elderly shall not be considered in determining overconcentration of intermediate care facilities/developmentally disabled-habilitative, intermediate care facilities/developmentally disabled-nursing or residential care facilities, as defined in Section 1502.

SEC. 9. Section 1276.5 of the Health and Safety Code is amended to read:

1276.5. The department shall adopt regulations setting forth the minimum number of equivalent nursing hours per patient required in skilled nursing and intermediate care facilities.

For the purposes of this section "nursing hours" means the number of hours of work performed per patient day by aides, nursing assistants, or orderlies plus two times the number of hours worked per patient day by registered nurses and licensed vocational nurses (except directors of nursing in facilities of 60 or larger capacity) and, in the distinct part of facilities and freestanding facilities providing care for the developmentally disabled or mentally disordered, licensed psychiatric technicians who perform direct nursing services for patients in skilled nursing and intermediate care facilities, except when the skilled nursing and intermediate care facility is licensed as a part of a state hospital.

Notwithstanding Section 1276, the department shall require the utilization of a registered nurse at all times if the department determines that the services of a skilled nursing and intermediate care facility require the utilization of a registered nurse.

Except as otherwise provided by law, the administrator of an intermediate care facility/developmentally disabled habilitative or an intermediate care facility/developmentally disabled—nursing shall be either a licensed nursing home administrator or a qualified mental retardation professional.

SEC. 10. Section 1275.3 is added to the Health and Safety Code, to read:

1275.3. (a) The State Department of Health Services and the State Department of Developmental Services shall jointly develop and implement licensing and Medi-Cal regulations appropriate for intermediate care facilities/developmentally disabled—nursing. The State Director of Health Services shall adopt these regulations as emergency regulations and, notwithstanding any provision of law, shall transmit emergency regulations adopted pursuant to this subdivision directly to the Secretary of State for filing, and regulations shall become effective immediately upon filing.

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.

(b) The regulations adopted pursuant to subdivision (a) shall ensure that residents of intermediate care facilities/developmentally

disabled—nursing receive appropriate medical and nursing services, and developmental program services in a normalized, least restrictive physical and programmatic environment appropriate to individual resident need.

In addition, the regulations shall do all of the following:

(1) Include provisions for the completion of a clinical and developmental assessment of placement needs, including medical and other needs, and the degree to which they are being met, of clients placed in an intermediate care facility/developmentally disabled-nursing and for the monitoring of these needs at regular intervals.

(2) Provide for maximum utilization of generic community resources by clients residing in a facility.

(3) Require the State Department of Developmental Services to review and approve an applicant's program plan as part of the licensing and certification process.

(4) Require that the physician providing the certification that placement in the intermediate care facility/developmentally disabled—nursing is needed, consult with the physician who was the physician of record at the time the person's proposed placement is being considered by the interdisciplinary team.

(c) Nothing in this section supersedes the authority of the State Fire Marshal pursuant to Sections 13113, 13113.5, 13143, and 13143.6 to the extent that these sections are applicable to community care facilities.

(d) The State Department of Developmental Services, in consultation with the State Department of Health Services, shall report to the Legislature no later than January 1, 1989, regarding the number and types of clients being served in intermediate care facilities/developmentally disabled-nursing and any problems encountered by facilities or the departments in implementing the new licensure category.

SEC. 11. Section 1280 of the Health and Safety Code is amended to read:

1280. The state department may provide consulting services upon request to any health facility to assist in the identification or correction of deficiencies or the upgrading of the quality of care provided by the health facility.

The state department shall notify the health facility of all deficiencies in its compliance with this chapter and the rules and regulations adopted hereunder, and the health facility shall agree with the state department upon a plan of corrections which shall give the health facility a reasonable time to correct such deficiencies. If at the end of the allotted time, as revealed by inspection, the health facility has failed to correct the deficiencies, the director may take action to revoke or suspend the license.

Reports on the results of each inspection of a health facility shall be prepared by the inspector or inspector team and shall be kept on file in the state department along with the plan of correction and

health facility comments. The inspection report may include a recommendation for reinspection. Inspection reports of an intermediate care facility/developmentally disabled habilitative or an intermediate care facility/developmentally disabled—nursing shall be provided by the state department to the appropriate regional center pursuant to Chapter 5 (commencing with Section 4620) of Division 4.5 of the Welfare and Institutions Code.

All inspection reports, lists of deficiencies, and plans of correction shall be open to public inspection.

In no event shall the act of providing a plan of correction, the content of the plan of correction, or the execution of a plan of correction, be used in any legal action or administrative proceeding as an admission within the meaning of Sections 1220 to 1227, inclusive, of the Evidence Code against the health facility, its licensee, or its personnel.

SEC. 12. 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 1497

An act to amend Section 22114 of the Education Code, and to amend Sections 20022 and 20809 of the Government Code, relating to public retirement systems, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 22114 of the Education Code is amended to read:

22114. (a) "Compensation" and "salary" mean: (1) remuneration in cash payable by the employer to the member; (2) any amount deducted from the member's salary for payment to one other than the member for the purpose of purchasing an annuity contract for the member under an annuity plan which meets the requirements of Section 403(b) of the Internal Revenue Code of 1954 (26 U.S.C. Sec. 403(b)); (3) any amount deducted from a member's wages for participation in a deferred compensation plan established pursuant to Chapter 4 (commencing with Section 19993) of Part 2.6 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, of the Government Code; (4) any amount deducted from the member's

salary for payment for participation in a voluntary tax-deferred retirement plan which meets the requirements of Section 401(k) of the Internal Revenue Code of 1954 (26 U.S.C.A. Sec. 401(k)).

(b) "Compensation" and "salary" do not mean, and shall not include, any of the following:

(1) Job-related expenses.

(2) Money paid to the employee for overtime service on and after July 1, 1956.

(3) Compensatory damages and money paid to the member in excess of regular salary as a compromise settlement of a dispute arising from termination of a member's employment contract.

(4) Lump-sum payments for accumulated sick leave or accumulated vacation leave.

(5) Money paid for summer school employment.

(6) Money paid as a bonus.

(7) Tax-sheltered annuity contributions which do not result in a reduction of the earned contract salary paid to the employee.

(8) Fringe benefits paid for by the employer in lieu of salary.

(9) Money not available for payment of salaries and which is applied by an employer for the purchase of annuity contracts or for other insurance programs, including those which meet the requirements of Section 403(b) of the Internal Revenue Code of 1954.

(10) Money not available for payment of salaries and which is applied by an employer for the purchase of a tax-deferred retirement plan which meets the requirements of Section 401(k) of the Internal Revenue Code.

(c) Any moneys paid under paragraphs (1) to (10), inclusive, of subdivision (b), shall not be included as a part of the member's compensation subject to contributions reported to the system.

SEC. 2. Section 20022 of the Government Code, as amended by Chapter 236 of the Statutes of 1985, 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 4 (commencing with Section 19993) of Part 2.6 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 amount deducted from the member's salary for payment for participation in

a voluntary tax-deferred retirement plan which meets the requirements of Section 401(k) of the Internal Revenue Code of the United States; (5) employer "pick up" of member contributions which meets the requirements of Section 414(h)(2) of the Internal Revenue Code of the United States; (6) any disability or workers' compensation payments to safety members in accordance with Sections 4800 and 4850 of the Labor Code; (7) 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; (8) compensation for uniforms, except as provided in Section 20022.1; (9) 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 Article 5 (commencing with Section 19878) of Chapter 2.5 of Part 2.6 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) amounts not available for payment of salaries and which are applied by the employer for the purchase of a tax-deferred retirement plan which meets the requirements of Section 401(k) of the Internal Revenue Code of the United States; (13) those items excluded from

compensation by Section 20022.2; and (14) any other payments the board may determine not to be compensation.

SEC. 3. Section 20022 of the Government Code, as amended by Chapter 236 of the Statutes of 1985, 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 4 (commencing with Section 19993) of Part 2.6 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 amount deducted from the member's salary for payment for participation in a voluntary tax-deferred retirement plan which meets the requirements of Section 401(k) of the Internal Revenue Code of the United States; (5) employer "pick up" of member contributions which meets the requirements of Section 414(h)(2) of the Internal Revenue Code of the United States; (6) any disability or workers' compensation payments to safety members in accordance with Sections 4800 and 4850 of the Labor Code; (7) 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; (8) compensation for uniforms, except as provided in Section 20022.1; (9) 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 Article 5 (commencing with Section 19878) of Chapter 2.5 of Part 2.6 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; (13) advanced disability pension payments provided pursuant to Section 4850.3 of the Labor Code; (14) amounts not available for payment of salaries and which are applied by the employer for the purchase of a tax-deferred retirement plan which meets the requirements of Section 401(k) of the Internal Revenue Code of the United States; and (15) any other payments the board may determine not to be compensation.

SEC. 4. Section 20022 of the Government Code, as amended by Chapter 236 of the Statutes of 1985, 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 4 (commencing with Section 19993) of Part 2.6 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 amount deducted from the member's salary for payment for participation in a voluntary tax-deferred retirement plan which meets the requirements of Section 401(k) of the Internal Revenue Code of the United States; (5) employer "pick up" of member contributions which meets the requirements of Section 414(h)(2) of the Internal Revenue Code of the United States; (6) any disability or workers'

compensation payments to safety members in accordance with Sections 4800 and 4850 of the Labor Code; (7) 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; (8) compensation for uniforms; (9) 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 Article 5 (commencing with Section 19878) of Chapter 2.5 of Part 2.6 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.

(c) Notwithstanding the provisions of paragraphs (5) and (6) of subdivision (a) and paragraph (11) of subdivision (b), the Department of Personnel Administration shall determine which payments and allowances that are paid by the state employer will be considered compensation for retirement purposes for any employee who either is excluded from the definition of state employee in subdivision (c) of Section 3513, or is a supervisory employee, as

defined in Section 3522.1, or is a nonelected officer or employee of the executive branch of government who is not a member of the civil service.

(d) Notwithstanding the provisions of paragraphs (5) and (6) of subdivision (*l*) and paragraph (11) of subdivision (b), the Trustees of the California State University shall determine which payments and allowances that are paid by the trustees will be considered compensation for retirement purposes for any managerial employee as defined in subdivision (*l*) of Section 3562, or supervisory employee as defined in Section 3580.3.

(e) Notwithstanding any other provision of this part, if any or all special compensation, as defined in paragraph (5) of subdivision (a) and paragraph (11) of subdivision (b) has not been reported or otherwise considered compensation for retirement purposes heretofore, this omission shall not affect any retirement allowance nor shall any moneys that might have otherwise been calculated as a result of the omission be retroactively paid by any state employee.

SEC. 5. Section 20022 of the Government Code, as amended by Chapter 236 of the Statutes of 1985, 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 4 (commencing with Section 19993) of Part 2.6 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 amount deducted from the member's salary for payment for participation in a voluntary tax-deferred retirement plan which meets the requirements of Section 401(k) of the Internal Revenue Code of the United States; (5) employer "pick up" of member contributions which meets the requirements of Section 414(h)(2) of the Internal Revenue Code of the United States; (6) any disability or workers' compensation payments to safety members in accordance with Sections 4800 and 4850 of the Labor Code; (7) 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; (8) compensation for uniforms; (9) 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 Article 5 (commencing with Section 19878) of Chapter 2.5 of Part 2.6 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; (13) advanced disability pension payments provided pursuant to Section 4850.3 of the Labor Code; (14) amounts not available for payment of salaries and which are applied by the employer for the purchase of a tax-deferred retirement plan which meets the requirements of Section 401(k) of the Internal Revenue Code of the United States; and (15) any other payments the board may determine not to be compensation.

(c) Notwithstanding the provisions of paragraphs (5) and (6) of subdivision (a) and paragraph (11) of subdivision (b), the Department of Personnel Administration shall determine which payments and allowances that are paid by the state employer will be considered compensation for retirement purposes for any employee who either is excluded from the definition of state employee in subdivision (c) of Section 3513, or is a supervisory employee, as defined in Section 3522.1, or is a nonelected officer or employee of the executive branch of government who is not a member of the civil

service.

(d) Notwithstanding the provisions of paragraphs (5) and (6) of subdivision (*l*) and paragraph (11) of subdivision (b), the Trustees of the California State University shall determine which payments and allowances that are paid by the trustees will be considered compensation for retirement purposes for any managerial employee as defined in subdivision (*l*) of Section 3562, or supervisory employee as defined in Section 3580.3.

(e) Notwithstanding any other provision of this part, if any or all special compensation, as defined in paragraph (5) of subdivision (a) and paragraph (11) of subdivision (b) has not been reported or otherwise considered compensation for retirement purposes heretofore, this omission shall not affect any retirement allowance nor shall any moneys that might have otherwise been calculated as a result of the omission be retroactively paid by any state employee.

SEC. 6. Section 20809 of the Government Code is amended to read:

20809. A person shall not receive credit for the same service in two retirement systems supported wholly or in part by public funds under any circumstance. Nothing in this section shall preclude concurrent participation and credit for service in a public retirement system and in a deferred compensation plan established pursuant to Chapter 4 (commencing with Section 19993) of Part 2.6 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 or a tax-deferred retirement plan which meets the requirements of Section 401(k) of the Internal Revenue Code of the United States.

SEC. 7. (a) Section 3 of this bill incorporates amendments to Section 20022 of the Government Code proposed by both this bill and AB 302. 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 20022 of the Government Code, and (3) SB 1203 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 302, in which case Sections 2, 4, and 5 of this bill shall not become operative.

(b) Section 4 of this bill incorporates amendments to Section 20022 of the Government Code proposed by both this bill and SB 1203. 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 20022 of the Government Code, (3) AB 302 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 1203 in which case Sections 2, 3, and 5 of this bill shall not become operative.

(c) Section 5 of this bill incorporates amendments to Section 20022 of the Government Code proposed by this bill, AB 302, and SB 1203. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1986, (2) all three bills amend Section 20022 of the Government Code, and (3) this bill is enacted after AB 302 and SB 1203, in which case Sections 2, 3, and

4 of this bill shall not become operative.

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:

California governmental and public school employees are currently denied the full benefits of voluntary retirement plans authorized by recent changes in federal tax law. In order to enable them to receive those benefits and to enable public school districts to consider establishment of such plans at meetings scheduled prior to the 1985 fall semester, it is necessary that this act go into immediate effect.

CHAPTER 1498

An act to amend Sections 65971, 65973, 65974, 65976, 65979, and 65980 of the Government Code, relating to interim school facilities.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 65971 of the Government Code is amended to read:

65971. (a) The governing body of a school district which operates an elementary or high school shall notify the city council or board of supervisors of the city or county within which the school district is located if the governing body makes both of the following findings supported by clear and convincing evidence:

(1) That conditions of overcrowding exist in one or more attendance areas within the district which will impair the normal functioning of educational programs including the reason for the existence of those conditions.

(2) That all reasonable methods of mitigating conditions of overcrowding have been evaluated and no feasible method for reducing those conditions exist.

(b) The notice of findings sent to the city or county pursuant to subdivision (a) shall specify the mitigation measures considered by the school district. If the city council or board of supervisors concurs in those findings, Section 65972 shall be applicable to actions taken on residential development by the city council or board of supervisors. The city council or board of supervisors shall take no action on the notice of findings sent to the city or county pursuant to subdivision (a) until the findings have been made available to the public for 60 days after the date of receipt by the city or county. The city council or board of supervisors shall either concur or not concur in the notice of findings within 61 days to 150 days after the date of

receipt of the findings. The city council or board of supervisors may extend the period to concur or not to concur for one 30-day period. The failure of the city council or board of supervisors to either concur or not concur within the time period prescribed in this subdivision shall not be deemed as an act of concurrence in the notice of findings by the council or board.

The date of receipt of the notice of findings is the date when all of the materials required by this section are completed and filed by the school district with the city council or board of supervisors.

SEC. 1.5. Section 65971 of the Government Code is amended to read:

65971. (a) The governing body of a school district which operates an elementary or high school shall notify the city council or board of supervisors of the city or county within which the school district is located if the governing body makes both of the following findings supported by clear and convincing evidence:

(1) That conditions of overcrowding exist in one or more attendance areas within the district which will impair the normal functioning of educational programs including the reason for the existence of those conditions.

(2) That all reasonable methods of mitigating conditions of overcrowding have been evaluated and no feasible method for reducing those conditions exist.

(b) The notice of findings sent to the city or county pursuant to subdivision (a) shall specify the mitigation measures considered by the school district. The notice of findings shall include a completed application to the Office of Local Assistance for preliminary determination of eligibility under the Leroy F. Greene State School Building Lease-Purchase Law of 1976 (Chapter 22 (commencing with Section 17700) of Part 10 of the Education Code). The city council or board of supervisors shall take no action on the notice of findings sent to the city or county pursuant to subdivision (a) until the findings have been made available to the public for 60 days after the date of receipt by the city or county. The city council or board of supervisors shall either concur or not concur in the notice of findings within 61 days to 150 days after the date of receipt of the findings. The city council or board of supervisors may extend the period to concur or not to concur for one 30-day period. The failure of the city council or board of supervisors to either concur or not concur within the time period prescribed in this subdivision shall not be deemed as an act of concurrence in the notice of findings by the council or board.

The date of receipt of the notice of findings is the date when all of the materials required by this section are completed and filed by the school district with the city council or board of supervisors.

If the city council or board of supervisors concurs in those findings, Section 65972 shall be applicable to actions taken on residential development by the city council or board of supervisors.

SEC. 2. Section 65973 of the Government Code is amended to

read:

65973. As used in this chapter, the following terms mean:

(a) "Conditions of overcrowding" means that the total enrollment of a school, including enrollment from proposed development, exceeds the capacity of the school, as determined by the governing body of the district.

(b) "Reasonable methods for mitigating conditions of overcrowding" shall include, but are not limited to, agreements between a subdivider or builder and the affected school district whereby temporary-use buildings will be leased to the school district or temporary-use buildings owned by the school district will be used and agreements between the affected school district and other school districts whereby the affected school district agrees to lease or purchase surplus school facilities from other school districts.

(c) "Residential development" means a project containing residential dwellings, including mobilehomes, of one or more units or a subdivision of land for the purpose of constructing one or more residential dwelling units.

SEC. 2.5. Section 65973 of the Government Code is amended to read:

65973. As used in this chapter the following terms means:

(a) "Conditions of overcrowding" means that the total enrollment of a school, including enrollment from proposed development, exceeds the capacity of the school as determined by the governing body of the district.

(b) "Reasonable methods for mitigating conditions of overcrowding" shall include, but are not limited to, agreements between a subdivider or builder and the affected school district whereby temporary-use buildings will be leased to the school district or temporary-use buildings owned by the school district will be used and agreements between the affected school district and other school districts whereby the affected school district agrees to lease or purchase surplus or underutilized school facilities from other school districts.

(c) "Residential development" means a project containing residential dwellings, including mobilehomes, of one or more units or a subdivision of land for the purpose of constructing one or more residential dwelling units.

SEC. 3. Section 65974 of the Government Code is amended to read:

65974. (a) 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

(1) The general plan provides for the location of public schools

(2) The ordinance has been in effect for a period of 30 days prior to the implementation of the dedication or fee requirement.

(3) 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.

(4) 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 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 value of the land to be dedicated or the amount of fees to be paid, or both, shall not exceed the amount necessary to pay five annual lease payments for the interim facilities. In lieu of the dedication of land or the payment of fees, or both, 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.

(5) 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.

(b) The ordinance may specify the methods for mitigating the conditions of overcrowding which the school district shall consider when making the finding required by paragraph (2) of subdivision (a) of Section 65971.

(c) 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.

(d) Only the payment of fees may be required in subdivisions containing 50 parcels or less.

SEC. 4. Section 65976 of the Government Code is amended to read:

65976. Before the city council or board of supervisors makes a decision to require the dedication of land or the payment of fees, or both, or to increase the amount of land to be dedicated or the fees to be paid, or both, the governing body of the school district shall submit a schedule to the city council or board of supervisors specifying how the school district will use the land or fees, or both, to solve the conditions of overcrowding. The schedule shall include the school sites to be used, the classroom facilities to be made available, and the times when those facilities will be available. If the governing body of the school district cannot meet the schedule, it shall submit modifications to the city council or board of supervisors and the reasons for the modifications.

SEC. 4.5. Section 65976 of the Government Code is amended to

read:

65976. As a part of the notice required by Section 65971, or in any event before the city council or board of supervisors make a decision to require the dedication of land or the payment of fees, or both, or to increase the amount of land to be dedicated or the fees to be paid, or both, the governing body of the school district shall submit a schedule to the city council or board of supervisors specifying how the school district will use the land or fees, or both, to solve the conditions of overcrowding. The schedule shall include the school sites to be used, the classroom facilities to be made available, and the times when those facilities will be available. If the governing body of the school district cannot meet the schedule, it shall submit modifications to the city council or board of supervisors and the reasons for the modifications.

SEC. 5. Section 65979 of the Government Code is amended to read:

65979. (a) One year after receipt of an apportionment pursuant to the Leroy F. Greene State School Building Lease-Purchase Law of 1976 (Chapter 22 (commencing with Section 17700 of Part 10 of the Education Code) for the construction of a school, the city or county shall not be permitted thereafter, pursuant to this chapter or pursuant to any other school facilities financing arrangement the district may have with builders of residential development, to levy any fee or to require the dedication of any land within the attendance area of the school for which the apportionment was received. However, any time after receipt of the apportionment there may be a determination of overcrowding pursuant to Section 65971, if both of the following further findings are made:

(1) That during the period of construction additional overcrowding would occur from continued residential development.

(2) That any fee levied and any required dedication of land levied after the receipt of the construction apportionment can be used to avoid the additional overcrowding prior to the school being available for use by the school district.

(b) Any amounts of fees collected or land dedicated after the receipt of the construction apportionment and not used to avoid overcrowding shall be returned to the person who paid the fee or made the land dedication.

SEC. 5.5. Section 65979 of the Government Code is amended to read:

65979. (a) One year after receipt of an apportionment pursuant to the Leroy F. Greene State School Building Lease-Purchase Law of 1976 (Chapter 22 (commencing with Section 17700 of Part 10 of the Education Code) for the construction of a school, the city or county shall not be permitted thereafter, pursuant to this chapter or pursuant to any other school facilities financing arrangement the district may have with builders of residential development, to levy any fee or to require the dedication of any land within the attendance area of the school for which the apportionment was

received. However, any time after receipt of the apportionment there may be a determination of overcrowding pursuant to Section 65971, if both of the following further findings are made:

(1) That during the period of construction, or after construction has been completed, additional overcrowding would occur from continued residential development.

(2) That any fee levied and any required dedication of land levied after the receipt of the construction apportionment can be used to avoid the additional overcrowding prior to the school being available for use by the school district.

(b) Any amounts of fees collected or land dedicated after the receipt of the construction apportionment and not used to avoid overcrowding shall be returned to the person who paid the fee or made the land dedication.

SEC. 6. Section 65980 of the Government Code is amended to read:

65980. For the purposes of Section 65974 the following terms mean:

(a) "Approval of a residential development" means any approval for the development prior to and including the issuance of a building permit for the development.

(b) "Classroom facilities," "classroom and related facilities," and "elementary or high school facilities" mean "interim facilities" and shall include no other facilities.

(c) "Interim facilities" are limited to any of the following:

(1) Temporary classrooms not constructed with permanent foundation and defined as a structure containing one or more rooms, each of which is designed, intended, and equipped for use as a place for formal instruction of pupils by a teacher in a school.

(2) Temporary classroom toilet facilities not constructed with permanent foundations.

(3) Reasonable site preparation and installation of temporary classrooms.

(4) Land necessary for the placement thereon of any of the facilities described in paragraph (1) or (2).

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. Section 1.5 of this bill incorporates amendments to Section 65971 of the Government Code proposed by both this bill and AB 2089. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 65971 of the Government Code, and (3) this bill is enacted after AB 2089, in which case Section 1 of this bill shall not become operative.

SEC. 9. Section 2.5 of this bill incorporates amendments to Section 65973 of the Government Code proposed by both this bill and AB 2089. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 65973 of the Government Code, and (3) this bill is enacted after AB 2089, in which case Section 2 of this bill shall not become operative.

SEC. 10. Section 4.5 of this bill incorporates amendments to Section 65976 of the Government Code proposed by both this bill and AB 2089. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 65976 of the Government Code, and (3) this bill is enacted after AB 2089, in which case Section 4 of this bill shall not become operative.

SEC. 11. Section 5.5 of this bill incorporates amendments to Section 65979 of the Government Code proposed by both this bill and AB 2089. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 65979 of the Government Code, and (3) this bill is enacted after AB 2089, in which case Section 5 of this bill shall not become operative.

CHAPTER 1499

An act relating to missing persons.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. The Department of Justice shall prepare a report to be submitted to the Legislature on or before January 1, 1987. That report shall summarize the data collected pursuant to Section 11114 of the Penal Code. The report shall also describe the system of cataloging missing person reports developed pursuant to subdivision (e) of Section 11114 of the Penal Code. The report shall include a statistical section that includes, but is not limited to, the ages of persons missing and the sites from which these persons have been abducted or from which they have disappeared. To the degree possible, the report shall also contain data summarizing and comparing characteristics of cases in which missing persons have been found, both alive and dead, with cases in which missing persons have not been found.

CHAPTER 1500

An act to amend, repeal, and add Section 4453.5 of the Vehicle Code, relating to vehicles, and making an appropriation therefor.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 4453.5 of the Vehicle Code is amended to read:

4453.5. In the case of leased vehicles, the lessor and the lessee shall be shown on the registration card as the owner and the user of a vehicle, and the department shall designate their relationships upon the card and the ownership certificate by the words "lessor" and "lessee" and shall designate thereon the address of the lessee.

Transfers of ownership involving vehicles as described in the preceding paragraph may be effected upon the signature release by either the lessor or the lessee when the application for transfer is accompanied by a statement of facts that the party signatory is the owner of the vehicle and entitled to transfer the vehicle.

This section shall remain in effect only until July 1, 1986, and as of that date is repealed, unless a later enacted statute, which is enacted before July 1, 1986, deletes or extends that date.

SEC. 2. Section 4453.5 of the Vehicle Code is added, to read:

4453.5. (a) In the case of leased vehicles, the lessor and the lessee shall be shown on the registration card as the owner and the lessee of a vehicle, and the department shall designate their relationships upon the card and the ownership certificate by the words "lessor" and "lessee" and, at the election of the lessor, the department may designate thereon either the address of the lessor or the lessee.

(b) Transfers of ownership involving vehicles registered as provided in subdivision (a) shall only be effected upon the signature release of the lessor.

(c) The lessor shall provide the address, or the name and address, of the lessee on a form prescribed by the department in all cases where the information is not on the registration card and ownership certificate. Information received under this subdivision shall be used only for law enforcement and shall be available only to law enforcement officials at their request.

(d) This section shall become operative on July 1, 1986.

SEC. 3. The sum of one hundred eighty-three thousand six hundred eighty-two dollars ($183,682) is hereby appropriated from the Motor Vehicle Account in the State Transportation Fund to the Department of Motor Vehicles for carrying out Section 4453.5 of the Vehicle Code.

CHAPTER 1501

An act to add Section 46013.9 to, the Education Code, relating to education.

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

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

SECTION 1. Section 46013.9 is added to the Education Code, to read:

46013.9. The Superintendent of Public Instruction may authorize 30 schools in 28 school districts to continue to use the attendance accounting and reporting procedures prescribed by Section 46013 for the 1985–86 school year through the 1988–89 school year, and shall not require these districts to keep parallel attendance accounting and reporting procedures as required under existing laws otherwise applicable. Subsequent to the 1982–83 fiscal year, no school district shall be eligible to receive a revenue limit increase pursuant to Section 46013.

CHAPTER 1502

An act to amend Section 2208 of, to amend and repeal Section 2203 of, and to add and repeal Section 2205.5 to, the Business and Professions Code, relating to physicians and surgeons, and making an appropriation therefor.

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

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

SECTION 1. Section 2203 of the Business and Professions Code is amended to read:

2203. There shall be 10 loans available each fiscal year up to June 30, 1986. On and after July 1, 1986, there shall be five loans available each fiscal year. The amount of a loan shall not exceed twenty thousand dollars ($20,000). The board shall make no more than one loan to any one licensed physician.

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 2205.5 is added to the Business and Professions Code, to read:

2205.5. The division shall, upon issuing a physician's and surgeon's certificate to an applicant, provide information regarding

the physician and surgeon incentive loan program to that licensee.

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. 3. Section 2208 of the Business and Professions Code is amended to read:

2208. Loans made pursuant to this article shall be repayable to the Contingent Fund of the Board of Medical Quality Assurance or cancelled under the following conditions:

(a) A licensed physician and surgeon who establishes and maintains a medical practice in an area deficient in primary care services for less than one year shall repay the total amount of the loan, in addition to accrued interest charges.

(b) A licensed physician and surgeon who establishes and maintains a medical practice in an area deficient in primary care services for more than one year, but less than two years, shall repay half the total amount of the loan, in addition to accrued interest charges.

(c) The total amount of the loan and all accrued interest shall be cancelled for a licensed physician and surgeon who establishes and maintains a medical practice in an area deficient in primary care services for more than two years from the date the loan is made.

SEC. 4. The Legislative Analyst shall report to the Legislature on or before June 30, 1988, on the effect of this act.

CHAPTER 1503

An act to amend Section 1203.1 of the Penal Code, relating to probation.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 1203.1 of the Penal Code, as amended by Section 4 of Chapter 980 of the Statutes of 1984, is amended to read:

1203.1. The court or judge thereof, in the order granting probation, may suspend the imposing, or the execution of the sentence and may direct that the suspension may continue for a period of time not exceeding the maximum possible term of the sentence, except as hereinafter set forth, and upon those terms and conditions as it shall determine. The court, or judge thereof, in the order granting probation and as a condition thereof may imprison the defendant in the county jail for a period not exceeding the maximum time fixed by law in the case; however, where the maximum possible term of the sentence is five years or less, then the period of suspension of imposition or execution of sentence may, in

the discretion of the court, continue for not over five years; may fine the defendant in a sum not to exceed the maximum fine provided by law in the case; or may in connection with granting probation, impose either imprisonment in county jail, or fine, or both, or neither; shall provide for restitution in proper cases; and may require bonds for the faithful observance and performance of any or all of the conditions of probation.

The court shall consider whether the defendant as a condition of probation shall make restitution to the victim or the Restitution Fund. Any restitution payment received by a probation department in the form of cash or money order shall be forwarded to the victim within 30 days from the date the payment is received by the department. Any restitution payment received by a probation department in the form of a check or draft shall be forwarded to the victim within 45 days from the date the payment is received by the department. In cases where the court has ordered the defendant to pay restitution to multiple victims and where the administrative cost of disbursing restitution payments to multiple victims involves a significant cost, any restitution payment received by a probation department shall be forwarded to multiple victims when it is cost effective to do so, but in no event shall restitution disbursements be delayed beyond 90 days from the date the payment is received by the probation department. In counties or cities and counties where road camps, farms, or other public work is available the court may place the probationer in such a road camp, farm, or other public work instead of in jail; Section 25359 of the Government Code shall apply to probation and the court shall have the same power to require adult probationers to work, as prisoners confined in the county jail are required to work, at public work. Each county board of supervisors may fix the scale of compensation of the adult probationers in that county. In all cases of probation the court may require as a condition of probation that the probationer go to work and earn money for the support of his or her dependents or to pay any fine imposed or reparation condition, to keep an account of his or her earnings, to report them to the probation officer and apply those earnings as directed by the court.

In all such cases if as a condition of probation a judge of the superior court sitting by authority of law elsewhere than at the county seat requires a convicted person to serve his or her sentence at intermittent periods the sentence may be served on the order of the judge at the city jail nearest to the place at which the court is sitting, and the cost of his or her maintenance shall be a county charge.

Upon conviction of any offense involving child abuse or neglect, the court may require, in addition to any or all of the above-mentioned terms of imprisonment, fine, and other reasonable conditions, that the defendant shall participate in counseling or education programs, or both, including, but not limited to, parent education or parenting programs operated by community colleges

school districts, other public agencies, or private agencies.

The court may impose and require any or all of the above-mentioned terms of imprisonment, fine, and conditions, and other reasonable conditions, as it may determine are fitting and proper to the end that justice may be done, that amends may be made to society for the breach of the law, for any injury done to any person resulting from that breach, and generally and specifically for the reformation and rehabilitation of the probationer, and that should the probationer violate any of the terms or conditions imposed by the court in the matter, it shall have authority to modify and change any and all such terms and conditions and to reimprison the probationer in the county jail within the limitations of the penalty of the public offense involved. Upon the defendant being released from the county jail under the terms of probation as originally granted or any modification subsequently made, and in all cases where confinement in a county jail has not been a condition of the grant of probation, the court shall place the defendant or probationer in and under the charge of the probation officer of the court, for the period or term fixed for probation. However, upon the payment of any fine imposed and the fulfillment of all conditions of probation, probation shall cease at the end of the term of probation, or sooner, in the event of modification. In counties and cities and counties in which there are facilities for taking fingerprints, those of each probationer shall be taken and a record of them kept and preserved.

Notwithstanding any other provisions of law to the contrary, except as provided in Sections 13967 and 13967.5 of the Government Code and Sections 1202.4, 1203.04, 1463.16, paragraph (1) of subdivision (a) of Section 1463.18, and Section 1464, all fines collected by a county probation officer in any of the courts of this state, as a condition of the granting of probation, or as a part of the terms of probation, shall be paid into the county treasury and placed in the general fund, for the use and benefit of the county.

If the court orders restitution to be made to the victim, the board of supervisors may add a fee to cover the actual administrative cost of collecting restitution but not to exceed 10 percent of the total amount ordered to be paid. The fees shall be paid into the general fund of the county treasury for the use and benefit of the county.

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 1203.1 of the Penal Code, as amended by Section 4 of Chapter 980 of the Statutes of 1984, is amended to read:

1203.1. The court or judge thereof, in the order granting probation, may suspend the imposing, or the execution of the sentence and may direct that the suspension may continue for a period of time not exceeding the maximum possible term of the sentence, except as hereinafter set forth, and upon those terms and conditions as it shall determine. The court, or judge thereof, in the

order granting probation and as a condition thereof may imprison the defendant in the county jail for a period not exceeding the maximum time fixed by law in the case; however, where the maximum possible term of the sentence is five years or less, then the period of suspension of imposition or execution of sentence may, in the discretion of the court, continue for not over five years; may fine the defendant in a sum not to exceed the maximum fine provided by law in the case; or may in connection with granting probation, impose either imprisonment in county jail, or fine, or both, or neither; shall provide for restitution in proper cases; and may require bonds for the faithful observance and performance of any or all of the conditions of probation.

The court shall consider whether the defendant as a condition of probation shall make restitution to the victim or the Restitution Fund. Any restitution payment received by a probation department in the form of cash or money order shall be forwarded to the victim within 30 days from the date the payment is received by the department. Any restitution payment received by a probation department in the form of a check or draft shall be forwarded to the victim within 45 days from the date the payment is received by the department, provided, that payment need not be forwarded to a victim until 180 days from the date the first such payment is received, if the restitution payments for that victim received by the probation department total less than fifty dollars ($50). In cases where the court has ordered the defendant to pay restitution to multiple victims and where the administrative cost of disbursing restitution payments to multiple victims involves a significant cost, any restitution payment received by a probation department shall be forwarded to multiple victims when it is cost effective to do so, but in no event shall restitution disbursements be delayed beyond 180 days from the date the payment is received by the probation department. In counties or cities and counties where road camps, farms, or other public work is available the court may place the probationer in such a road camp, farm, or other public work instead of in jail; Section 25359 of the Government Code shall apply to probation and the court shall have the same power to require adult probationers to work, as prisoners confined in the county jail are required to work, at public work. Each county board of supervisors may fix the scale of compensation of the adult probationers in that county. In all cases of probation the court may require as a condition of probation that the probationer go to work and earn money for the support of his or her dependents or to pay any fine imposed or reparation condition, to keep an account of his or her earnings, to report them to the probation officer and apply those earnings as directed by the court.

In all such cases if as a condition of probation a judge of the superior court sitting by authority of law elsewhere than at the county seat requires a convicted person to serve his or her sentence at intermittent periods the sentence may be served on the order of

the judge at the city jail nearest to the place at which the court is sitting, and the cost of his or her maintenance shall be a county charge.

Upon conviction of any offense involving child abuse or neglect, the court may require, in addition to any or all of the above-mentioned terms of imprisonment, fine, and other reasonable conditions, that the defendant shall participate in counseling or education programs, or both, including, but not limited to, parent education or parenting programs operated by community colleges, school districts, other public agencies, or private agencies.

The court may impose and require any or all of the above-mentioned terms of imprisonment, fine, and conditions, and other reasonable conditions, as it may determine are fitting and proper to the end that justice may be done, that amends may be made to society for the breach of the law, for any injury done to any person resulting from that breach, and generally and specifically for the reformation and rehabilitation of the probationer, and that should the probationer violate any of the terms or conditions imposed by the court in the matter, it shall have authority to modify and change any and all such terms and conditions and to reimprison the probationer in the county jail within the limitations of the penalty of the public offense involved. Upon the defendant being released from the county jail under the terms of probation as originally granted or any modification subsequently made, and in all cases where confinement in a county jail has not been a condition of the grant of probation, the court shall place the defendant or probationer in and under the charge of the probation officer of the court, for the period or term fixed for probation. However, upon the payment of any fine imposed and the fulfillment of all conditions of probation, probation shall cease at the end of the term of probation, or sooner, in the event of modification. In counties and cities and counties in which there are facilities for taking fingerprints, those of each probationer shall be taken and a record of them kept and preserved.

Notwithstanding any other provisions of law to the contrary, except as provided in Sections 13967 and 13967.5 of the Government Code and Sections 1202.4, 1203.04, 1463.16, paragraph (1) of subdivision (a) of Section 1463.18, and Section 1464, all fines collected by a county probation officer in any of the courts of this state, as a condition of the granting of probation, or as a part of the terms of probation, shall be paid into the county treasury and placed in the general fund, for the use and benefit of the county.

If the court orders restitution to be made to the victim, the board of supervisors may add a fee to cover the actual administrative cost of collecting restitution but not to exceed 10 percent of the total amount ordered to be paid. The fees shall be paid into the general fund of the county treasury for the use and benefit of the county.

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. 3. Counties electing to increase the fees charged to cover the administrative cost of collecting restitution pursuant to Section 1 of this act shall report to the Legislature prior to January 1, 1988, relative to the need for and the effect of that increase.

SEC. 4. Section 2 of this bill incorporates amendments to Section 1203.1 of the Penal Code, as amended by Section 4 of Chapter 980 of the Statutes of 1984, proposed by both this bill and AB 1346. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 1203.1 of the Penal Code, and (3) this bill is enacted after AB 1346, in which case Section 1 of this bill shall not become operative.

CHAPTER 1504

An act to amend Sections 66412, 66424.6, 66434, 66436, 66445, and 66497 of, and to add Section 66474.8 to, the Government Code, relating to subdivisions.

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

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

SECTION 1. Section 66412 of the Government Code is amended to read:

66412. This division shall be inapplicable to:

(a) The financing or leasing of apartments, offices, stores or similar space within apartment buildings, industrial buildings, commercial buildings, mobilehome parks, or trailer parks.

(b) Mineral, oil or gas leases.

(c) Land dedicated for cemetery purposes under the Health and Safety Code.

(d) A lot line adjustment between two or more existing adjacent parcels, where the land taken from one parcel is added to an adjacent parcel, and where a greater number of parcels than originally existed is not thereby created, provided the lot line adjustment is approved by the local agency, or advisory agency. A local agency or advisory agency shall limit its review and approval to a determination of whether or not the parcels resulting from the lot line adjustment will conform to local zoning and building ordinances. An advisory agency or local agency shall not impose conditions or exactions on its approval of a lot line adjustment except to conform to local zoning and building ordinances, or except to facilitate the relocation of existing utilities, infrastructure, or easements. No tentative map, parcel map, or final map shall be required as a condition to the approval of a lot line adjustment. The lot line adjustment shall be reflected in a deed or record of survey which shall be recorded.

(e) Boundary line or exchange agreements to which the State Lands Commission or a local agency holding a trust grant of tide and submerged lands is a party.

(f) Any separate assessment under Section 2188.7 of the Revenue and Taxation Code.

(g) Unless a parcel or final map was approved by the legislative body of a local agency, the conversion of a community apartment project, as defined in Section 11004 of the Business and Professions Code, to a condominium, as defined in Section 783 of the Civil Code, but only if all of the following requirements are met:

(1) At least 75 percent of the units in the project were occupied by record owners of the project on March 31, 1982.

(2) A final or parcel map of the project was properly recorded, if the property was subdivided, as defined in Section 66424, after January 1, 1964, with all of the conditions of that map remaining in effect after the conversion.

(3) The local agency certifies that the above requirements were satisfied if the local agency, by ordinance, provides for that certification.

(h) Unless a parcel or final map was approved by the legislative body of a local agency, the conversion of a stock cooperative, as defined in Section 11003.2 of the Business and Professions Code, to a condominium, as defined in Section 783 of the Civil Code, but only if all of the following requirements are met:

(1) At least 51 percent of the units in the cooperative were occupied by stockholders of the cooperative on January 1, 1981, or individually owned by stockholders of the cooperative on January 1, 1981. As used in this paragraph, a cooperative unit is "individually owned" if and only if the stockholder of that unit owns or partially owns an interest in no more than one unit in the cooperative.

(2) No more than 25 percent of the shares of the cooperative were owned by any one person, as defined in Section 17, including an incorporator or director of the cooperative, on January 1, 1981.

(3) A person renting a unit in a cooperative shall be entitled at the time of conversion to all tenant rights in state or local law, including, but not limited to, rights respecting first refusal, notice, and displacement and relocation benefits.

(4) The local agency certifies that the above requirements were satisfied if the local agency, by ordinance, provides for that certification.

(i) The leasing of, or the granting of an easement to, a parcel of land, or any portion or portions thereof, in conjunction with the financing, erection, and sale or lease of a windpowered electrical generation device on the land, if the project is subject to discretionary action by the advisory agency or legislative body.

SEC. 2. Section 66424.6 of the Government Code is amended to read:

66424.6. (a) When a subdivision, as defined in Section 66424, is of a portion of any unit or units of improved or unimproved land, the

subdivider may designate as a remainder that portion which is not divided for the purpose of sale, lease, or financing. The designated remainder shall not be counted as a parcel for the purpose of determining whether a parcel map or final map is required.

(b) For a designated remainder parcel described in subdivision (a), the fulfillment of construction requirements for improvements shall not be required until a permit or other grant of approval for development of the remainder parcel is issued by the local agency or, where provided by local ordinance, until the construction of the improvements is required pursuant to an agreement between the subdivider and the local agency. In the absence of that agreement, a local agency may require fulfillment of the construction requirements within a reasonable time following approval of the final map and prior to the issuance of a permit or other grant of approval for the development of a remainder parcel upon a finding by the local agency that fulfillment of the construction requirements is necessary for reasons of:

(1) The public health and safety; or

(2) The required construction is a necessary prerequisite to the orderly development of the surrounding area.

(c) A designated remainder may subsequently be sold without any further requirement of the filing of a parcel map or final map, but the local agency may require a certificate of compliance or conditional certificate of compliance.

SEC. 3. Section 66434 of the Government Code is amended to read:

66434. The final map shall be prepared by or under the direction of a registered civil engineer or licensed land surveyor, shall be based upon a survey, and shall conform to all of the following provisions:

(a) It shall be legibly drawn, printed, or reproduced by a process guaranteeing a permanent record in black on tracing cloth or polyester base film. Certificates, affidavits, and acknowledgments may be legibly stamped or printed upon the map with opaque ink. If ink is used on polyester base film, the ink surface shall be coated with a suitable substance to assure permanent legibility.

(b) The size of each sheet shall be 18 by 26 inches. A marginal line shall be drawn completely around each sheet, leaving an entirely blank margin of one inch. The scale of the map shall be large enough to show all details clearly and enough sheets shall be used to accomplish this end. The particular number of the sheet and the total number of sheets comprising the map shall be stated on each of the sheets, and its relation to each adjoining sheet shall be clearly shown.

(c) All survey and mathematical information and data necessary to locate all monuments and to locate and retrace any and all interior and exterior boundary lines appearing thereon shall be shown, including bearings and distances of straight lines, and radii and arc length or chord bearings and length for all curves, and any information which may be necessary to determine the location of the centers of curves and ties to existing monuments used to establish the

subdivision boundaries.

(d) Each parcel shall be numbered and each block may be numbered or lettered. Each street shall be named or otherwise designated.

(e) The exterior boundary of the land included within the subdivision shall be indicated by distinctive symbols and clearly so designated. The map shall show the definite location of the subdivision, and particularly its relation to surrounding surveys. If the map includes a "designated remainder" parcel, and the gross area of the "designated remainder" parcel or similar parcel is five acres or more, that remainder parcel need not be shown on the map and its location need not be indicated as a matter of survey, but only by deed reference to the existing boundaries of the remainder parcel.

A parcel designated as "not a part" shall be deemed to be a "designated remainder" for purposes of this section.

(f) The map shall conform to any additional survey and map requirements of local ordinances.

SEC. 3.5. Section 66434 of the Government Code is amended to read:

66434. The final map shall be prepared by or under the direction of a registered civil engineer or licensed land surveyor, shall be based upon a survey, and shall conform to all of the following provisions:

(a) It shall be legibly drawn, printed, or reproduced by a process guaranteeing a permanent record in black on tracing cloth or polyester base film. Certificates, affidavits, and acknowledgments may be legibly stamped or printed upon the map with opaque ink. If ink is used on polyester base film, the ink surface shall be coated with a suitable substance to assure permanent legibility.

(b) The size of each sheet shall be 18 by 26 inches. A marginal line shall be drawn completely around each sheet, leaving an entirely blank margin of one inch. The scale of the map shall be large enough to show all details clearly and enough sheets shall be used to accomplish this end. The particular number of the sheet and the total number of sheets comprising the map shall be stated on each of the sheets, and its relation to each adjoining sheet shall be clearly shown.

(c) All survey and mathematical information and data necessary to locate all monuments and to locate and retrace any and all interior and exterior boundary lines appearing thereon shall be shown, including bearings and distances of straight lines, and radii and arc length or chord bearings and length for all curves, and any information which may be necessary to determine the location of the centers of curves and ties to existing monuments used to establish the subdivision boundaries.

(d) Each parcel shall be numbered and each block may be numbered or lettered. Each street shall be named or otherwise designated.

(e) The exterior boundary of the land included within the subdivision shall be indicated by distinctive symbols and clearly so

designated. The map shall show the definite location of the subdivision, and particularly its relation to surrounding surveys.

If the map includes a "designated remainder" parcel, and the gross area of the "designated remainder" parcel or similar parcel is five acres or more, that remainder parcel need not be shown on the map and its location need not be indicated as a matter of survey, but only by deed reference to the existing boundaries of the remainder parcel.

A parcel designated as "not a part" shall be deemed to be a "designated remainder" for purposes of this section.

(f) On and after January 1, 1987, no additional requirements shall be included which do not affect record title interests. However, the map shall contain a notation or reference to additional information required by a local ordinance adopted pursuant to Section 66434.2.

SEC. 4. Section 66436 of the Government Code is amended to read:

66436. A certificate, signed and acknowledged by all parties having any record title interest in the real property subdivided, consenting to the preparation and recordation of the final map is required, except as follows:

(a) Neither a lien for state, county, municipal or local taxes, nor for special assessments, nor a trust interest under bond indentures, nor mechanics' liens constitute a record title interest in land for the purpose of this chapter or local ordinance.

(b) The signature of either the holder of beneficial interests under trust deeds or the trustee under the trust deeds, but not both, may be omitted. The signature of either shall constitute a full and complete subordination of the lien of the deed of trust to the map and any interest created by the map.

(c) Signatures of parties owning the following types of interests may be omitted if their names and the nature of their respective interests are stated on the final map:

(1) Rights-of-way, easements or other interests which cannot ripen into a fee, except those owned by a public entity, public utility, or subsidiary of a public utility for conveyance to the public utility for rights-of-way. If, however, the legislative body or advisory agency determines that division and development of the property in the manner set forth on the approved or conditionally approved tentative map will not unreasonably interfere with the free and complete exercise of the public entity or public utility right-of-way or easement, the signature of the public entity or public utility may be omitted. Where that determination is made, the subdivider shall send, by certified mail, a sketch of the proposed final map, together with a copy of this section, to any public entity or public utility which has previously acquired a right-of-way or easement.

If the public entity or utility objects to either (i) recording the final map without its signature; or (ii) the determination of the legislative body or advisory agency that the division and development of the property will not unreasonably interfere with

the full and complete exercise of its right-of-way or easement, it shall so notify the subdivider and the legislative body or advisory agency within 30 days after receipt of the materials from the subdivider.

If the public entity or utility objects to recording the final map without its signature, the public entity or utility so objecting may affix its signature to the final map within 30 days of filing its objection with the legislative body or advisory agency.

If the public entity or utility either (i) does not file an objection with the legislative body or advisory agency; or (ii) fails to affix its signature within 30 days of filing its objection, to recording the map without its signature, the local agency may record the final map without such signature.

If the public entity or utility files an objection to the determination of the legislative body or advisory agency that the division and development of the property will not unreasonably interfere with the exercise of its right-of-way or easement, the legislative body or advisory agency shall set the matter for public hearing to be held not less than 10 nor more than 30 days of receipt of the objection. At the hearing, the public entity or public utility shall present evidence in support of its position that the division and development of the property will unreasonably interfere with the free and complete exercise of the objector's right-of-way or easement.

If the legislative body or advisory agency finds, following the hearing, that the development and division will in fact unreasonably interfere with the free and complete exercise of the objector's right-of-way or easement, it shall set forth those conditions whereby the unreasonable interference will be eliminated and upon compliance with those conditions by the subdivider, the final map may be recorded with or without the signature of the objector. If the legislative body or advisory agency finds that the development and division will in fact not unreasonably interfere with the free and complete exercise of the objector's right-of-way or easement, the final map may be recorded without the signature of the objector, notwithstanding its objections.

Failure of the public entity or public utility to file an objection pursuant to this section shall in no way affect its rights under a right-of-way or easement.

(2) Rights-of-way, easements, or reversions, which by reason of changed conditions, long disuse or laches appear to be no longer of practical use or value and signatures are impossible or impractical to obtain. A statement of the circumstances preventing the procurement of the signatures shall also be stated on the map.

(3) Interests in or rights to minerals, including but not limited to oil, gas or other hydrocarbon substances.

(d) Real property originally patented by the United States or by the State of California, which original patent reserved interest to either or both of such entities, may be included in the final map without the consent of the United States or the State of California to the map or to dedications made by it.

(e) No monetary liability shall be incurred by, and no cause of action shall arise against a local agency, a party, the subdivider, the subdivider's agent, or the engineer or land surveyor who prepared the map, on account of the omission of any signature, which omission is authorized by this section.

SEC. 5. Section 66445 of the Government Code is amended to read:

66445. The parcel map shall be prepared by or under the direction of a registered civil engineer or licensed land surveyor, shall show the location of streets and property lines bounding the property and shall conform to all of the following provisions:

(a) It shall be legibly drawn, printed, or reproduced by a process guaranteeing a permanent record in black on tracing cloth or polyester base film. Certificates, affidavits, and acknowledgments may be legibly stamped or printed upon the map with opaque ink. If ink is used on polyester base film, the ink surface shall be coated with a suitable substance to assure permanent legibility.

(b) The size of each sheet shall be 18 by 26 inches. A marginal line shall be drawn completely around each sheet, leaving an entirely blank margin of one inch. The scale of the map shall be large enough to show all details clearly and enough sheets shall be used to accomplish this end. The particular number of the sheet and the total number of sheets comprising the map shall be stated on each of the sheets, and its relation to each adjoining sheet shall be clearly shown.

(c) Each parcel shall be numbered and each block may be numbered or lettered. Each street shall be named or otherwise designated.

(d) The exterior boundary of the land included within the subdivision shall be indicated by distinctive symbols and clearly so designated.

The map shall show the location of each parcel and its relation to surrounding surveys. If the map includes a "designated remainder" parcel or similar parcel, and the gross area of the "designated remainder" parcel or similar parcel is five acres or more, that remainder parcel need not be shown on the map and its location need not be indicated as a matter of survey, but only by deed reference to the existing boundaries of the remainder parcel.

A parcel designated as "not a part" shall be deemed to be a "designated remainder" for purposes of this section.

(e) Subject to the provisions of Section 66436, a certificate, signed and acknowledged by all parties having any record title interest in the real property subdivided, consenting to the preparation and recordation of the parcel map is required, except that less inclusive requirements may be provided by local ordinance.

With respect to a division of land into four or fewer parcels, where dedications or offers of dedications are not required, the certificate shall be signed and acknowledged by the subdivider only. If the subdivider does not have a record title ownership interest in the property to be divided, the local agency may require that the

subdivider provide the local agency with satisfactory evidence that the persons with record title ownership have consented to the proposed division. For purposes of this paragraph, "record title ownership" shall mean fee title of record unless a leasehold interest is to be divided, in which case "record title ownership" shall mean ownership of record of such leasehold interest; "record title ownership" does not include ownership of mineral rights or other subsurface interests which have been severed from ownership of the surface.

(f) It shall also satisfy any additional map requirements of local ordinances consistent with this division.

Notwithstanding any other provision of this article, local agencies may require that those certificates and acknowledgments required pursuant to this subdivision and subdivision (e) be made by separate instrument to be recorded concurrently with the parcel map being filed for record.

(g) Whenever a certificate or acknowledgment is made by separate instrument, there shall appear on the final map a reference to the separately recorded document. This reference shall be completed by the county recorder pursuant to Section 66468.1.

(h) If a field survey was performed, the parcel map shall contain a certificate by the engineer or surveyor responsible for the preparation of the map that states that all monuments are of the character and occupy the positions indicated, or that they will be set in those positions on or before a specified date, and that the monuments are, or will be, sufficient to enable the survey to be retraced.

SEC. 5.5. Section 66445 of the Government Code is amended to read:

66445. The parcel map shall be prepared by or under the direction of a registered civil engineer or licensed land surveyor, shall show the location of streets and property lines bounding the property and shall conform to all of the following provisions:

(a) It shall be legibly drawn, printed or reproduced by a process guaranteeing a permanent record in black on tracing cloth or polyester base film. Certificates, affidavits, and acknowledgments may be legibly stamped or printed upon the map with opaque ink. If ink is used on polyester base film, the ink surface shall be coated with a suitable substance to assure permanent legibility.

(b) The size of each sheet shall be 18 by 26 inches. A marginal line shall be drawn completely around each sheet, leaving an entirely blank margin of one inch. The scale of the map shall be large enough to show all details clearly and enough sheets shall be used to accomplish this end. The particular number of the sheet and the total number of sheets comprising the map shall be stated on each of the sheets, and its relation to each adjoining sheet shall be clearly shown.

(c) Each parcel shall be numbered and each block may be numbered or lettered. Each street shall be named or otherwise designated.

(d) The exterior boundary of the land included within the subdivision shall be indicated by distinctive symbols and clearly so designated.

The map shall show the location of each parcel and its relation to surrounding surveys. If the map includes a "designated remainder" parcel or similar parcel, and the gross area of the "designated remainder" parcel or similar parcel is five acres or more, that remainder parcel need not be shown on the map and its location need not be indicated as a matter or survey, but only by deed reference to the existing boundaries of the remainder parcel.

A parcel designated as "not a part" shall be deemed to be a "designated remainder" for purposes of this section.

(e) Subject to the provisions of Section 66436, a certificate, signed and acknowledged by all parties having any record title interest in the real property subdivided, consenting to the preparation and recordation of the parcel map is required, except that less inclusive requirements may be provided by local ordinance.

With respect to a division of land into four or fewer parcels, where dedications or offers of dedications are not required, the certificate shall be signed and acknowledged by the subdivider only. If the subdivider does not have a record title ownership interest in the property to be divided, the local agency may require that the subdivider provide the local agency with satisfactory evidence that the persons with record title ownership have consented to the proposed division. For purposes of this paragraph, "record title ownership" shall mean fee title of record unless a leasehold interest is to be divided, in which case "record title ownership" shall mean ownership of record of such leasehold interest; "record title ownership" does not include ownership of mineral rights or other subsurface interests which have been severed from ownership of the surface.

(f) Notwithstanding any other provision of this article, local agencies may require that those certificates and acknowledgments required pursuant to subdivision (e) be made by separate instrument to be recorded concurrently with the parcel map being filed for record.

(g) On and after January 1, 1987, no additional survey and map requirements shall be included on a parcel map which do not affect record title interests. However, the map shall contain a notation of reference to survey and map information required by a local ordinance adopted pursuant to Section 66434.2.

(h) Whenever a certificate or acknowledgment is made by separate instrument, there shall appear on the final map a reference to the separately recorded document. This reference shall be completed by the county recorder pursuant to Section 66468.1.

(i) If a field survey was performed, the parcel map shall contain a certificate by the engineer or surveyor responsible for the preparation of the map that states that all monuments are of the character and occupy the positions indicated, or that they will be set

in those positions on or before a specified date, and that the monuments are, or will be, sufficient to enable the survey to be retraced.

SEC. 6. Section 66474.8 is added to the Government Code, to read:

66474.8. No ordinance, regulation, policy, or procedure which regulates or prescribes standards for grading or drainage, adopted by or applicable to a local agency pursuant to Section 17922 or 17958 of the Health and Safety Code, shall apply to the construction of design or improvement work, including the rough grading of lots within the subdivision, performed pursuant to, or in connection with an approved or conditionally approved tentative map, final map, or parcel map unless the local agency has no other applicable ordinance, regulation, policy, or procedure which regulates or prescribes standards for grading or drainage for subdivision design or improvement.

SEC. 7. Section 66497 of the Government Code is amended to read:

66497. Within five days after the final setting of all monuments has been completed, the engineer or surveyor shall give written notice to the subdivider, and to the city engineer or the county surveyor or any other public official or employee authorized to receive these notices, that the final monuments have been set.

Upon payment to the engineer or surveyor for setting the final monuments, the subdivider shall present to the legislative body evidence of the payment and receipt thereof by the engineer or surveyor. In the case of a cash deposit, the legislative body shall pay the engineer or surveyor for the setting of the final monuments from the cash deposit, if so requested by the depositor.

If the subdivider does not present evidence to the legislative body that the engineer or surveyor has been paid for the setting of the final monuments, and if the engineer or surveyor notifies the legislative body that payment has not been received from the subdivider for the setting of the final monuments, the legislative body shall, within three months from the date of the notification, pay to the engineer or surveyor from any deposit the amount due.

SEC. 8. It is the intent of the Legislature, if this bill and AB 621 are both chaptered and become effective January 1, 1986, both bills amend Section 66434 of the Government Code, and this bill is chaptered after AB 621, that the amendments to Section 66434 proposed by both bills be given effect and incorporated in Section 66434 in the form set forth in Section 3.5 of this act. Therefore, Section 3.5 of this act shall become operative only if this bill and AB 621 are both chaptered and become effective January 1, 1986, both amend Section 66434, and this bill is chaptered after AB 621, in which case Section 3 of this act shall not become operative.

SEC. 9. It is the intent of the Legislature, if this bill and AB 621 are both chaptered and become effective January 1, 1986, both bills amend Section 66445 of the Government Code, and this bill is

chaptered after AB 621, that the amendments to Section 66445 proposed by both bills be given effect and incorporated in Section 66445 in the form set forth in Section 5.5 of this act. Therefore, Section 5.5 of this act shall become operative only if this bill and AB 621 are both chaptered and become effective January 1, 1986, both amend Section 66445, and this bill is chaptered after AB 621, in which case Section 5 of this act shall not become operative.

SEC. 10. 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 1505

An act to add Section 11010.05 to the Business and Professions Code, and to amend Sections 51.3 and 1360 of, and to add Section 1368 to, the Civil Code, relating to housing.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 11010.05 is added to the Business and Professions Code, to read:

11010.05. A person who proposes to create a senior citizen housing development, as defined in Section 51.3 of the Civil Code, through phased development and marketing of subdivision interests, may apply for and obtain a public report for a phase of the subdivision as part of a senior citizen housing development even though the phase itself will not include a sufficient number of dwelling units to qualify as a senior citizen housing development. The applicant shall submit the following statement, signed under penalty of perjury, with the application for a public report:

(a) A statement of the applicant's intent that the subdivision phase shall ultimately be part of a senior citizen housing development.

(b) An explanation of the annexation of the subdivision phases for the creation of the senior citizen housing development.

(c) Evidence satisfactory to the department that the applicant owns or controls real property capable of being subdivided and annexed to the original subdivision to provide a sufficient number of dwelling units to satisfy the numerical requirements for a senior citizen housing development.

SEC. 2. Section 51.3 of the Civil Code is amended to read:

51.3. (a) The Legislature finds and declares that this section is essential to establish and preserve specially designed accessible

housing for senior citizens. There are senior citizens who need special living environments and services, and find that there is an inadequate supply of this type of housing in the state.

(b) The Legislature finds and declares that different age limitations for senior citizen housing are appropriate in recognition of the size of a development in relationship to the community in which it is located.

(c) For the purposes of this section, the following definitions apply:

(1) "Qualifying resident" or "senior citizen" means a person 62 years of age or older, or 55 years of age or older in a senior citizen housing development.

(2) "Qualified permanent resident" means a person who meets all of the following requirements:

(A) Was residing with the qualifying resident or senior citizen prior to the death, hospitalization, or other prolonged absence of, or the dissolution of marriage with, the qualifying resident or senior citizen.

(B) Was 45 years of age or older, or was a spouse, cohabitant, or person providing primary physical or economic support to the qualifying resident or senior citizen.

(C) Has an ownership interest in, or is in expectation of an ownership interest in, the dwelling unit within the housing development that limits occupancy, residency, or use on the basis of age.

(3) "Senior citizen housing development" means a residential development consisting of at least 150 dwelling units in a standard metropolitan statistical area or at least 35 dwelling units in any other area which is developed for, or substantially rehabilitated or renovated for, senior citizens. For the purpose of computing the number of dwelling units within that development, the number of dwelling units developed, whether in single or multiple phases, shall be included in the computation. Developments commenced after July 1, 1986, shall be required to have been issued a public report as a senior citizen housing development under Section 11010.05 of the Business and Professions Code.

(4) "Dwelling unit" or "housing" means any residential accommodation other than a mobilehome.

(5) "Cohabitant" means persons who live together as husband and wife.

(d) The covenants, conditions, and restrictions or other documents or written policy shall not limit occupancy, residency, or use on the basis of age more proscriptively than to require that one person in residence in each dwelling unit may be required to be a senior citizen and that each other resident in the same dwelling unit may be required to be a qualified permanent resident.

(e) The covenants, conditions, and restrictions or other documents or written policy shall permit temporary residency, as a guest of a senior citizen or qualified permanent resident, by a person

of less than 45 years of age for periods of time, not less than 60 days in any year, which are specified in the covenants, conditions, and restrictions or other documents or written policy.

(f) Upon the death or dissolution of marriage, or upon hospitalization, or other prolonged absence of the qualifying resident, any qualified permanent resident shall be entitled to continue his or her occupancy, residency, or use of the dwelling unit.

(g) The condominium, stock cooperative, limited-equity housing cooperative, planned development, or multiple-family residential rental property shall have been developed for, and initially been put to use as, housing for senior citizens, or shall have been substantially rehabilitated or renovated for, and immediately afterward put to use as, housing for senior citizens, as provided in this section.

The covenants, conditions, and restrictions or other documents or written policies applicable to any condominium, stock cooperative, limited-equity housing cooperative, planned development, or multiple-family residential property which contained age restrictions on January 1, 1984, shall be enforceable only to the extent permitted by this section, notwithstanding lower age restrictions contained in those documents or policies.

Any person who has the right to reside in, occupy, or use the housing or an unimproved lot subject to this section on January 1, 1985, shall not be deprived of the right to continue that residency, occupancy, or use as the result of the enactment of this section.

SEC. 3. Section 1360 of the Civil Code is amended to read:

1360. (a) The owner of a lot or unit in any of the subdivisions referred to in Section 11004.5 of the Business and Professions Code, shall, as soon as practicable before transfer of title or the execution of a real property sales contract as defined in Section 2985, give all of the following to the prospective purchaser:

(1) A copy of the declarations of restrictions, and, if the restrictions limit occupancy, residency, or use on the basis of age in a manner different from that provided in Section 51.3, also a statement that the restrictions are only enforceable to the extent permitted by Section 51.3 and a statement specifying the applicable provisions of Section 51.3.

(2) Bylaws.

(3) Articles of incorporation affecting rights to the property being offered for transfer.

(4) A true statement in writing from the governing body of any of the subdivisions referred to in Section 11004.5 of the Business and Professions Code as to the amount of any delinquent assessments and information relating to penalties, attorney's fees, and other charges therein as provided by the declaration of restrictions of the subdivision or the management documents of the governing body on the lot or unit as of the date the statement is issued.

(5) A copy of the most current financial statements, as defined in Section 1730, which have already been distributed to the owner of such a unit.

(b) Upon written request, the governing body of any of the subdivisions referred to in subdivision (a) shall, within 10 days of the mailing or delivery of the request, provide the owner of a lot or unit in that subdivision with copies of the documents or statements specified in subdivision (a) which are applicable to the subdivision. The governing body may impose a fee for providing the documents and statement, but in no event shall the fee exceed the reasonable cost to prepare and reproduce the requested documents.

(c) The provisions of this section, except those provisions relating to a written statement of delinquent assessments and such other charges as may be authorized by the declaration of restrictions or management documents, shall not apply to the transfer of a lot or unit the transfer of which is required to be preceded by the furnishing to a prospective purchaser of a copy of a public report pursuant to Section 11018.1 of the Business and Professions Code.

(d) Any person or entity who willfully violates the provisions of this section shall be liable to the purchaser of a lot, or unit which is subject to the provisions of this section for the actual damages and in addition thereto shall pay a penal sum in an amount not to exceed five hundred dollars ($500), and in an action to enforce such liability, the prevailing party shall be awarded reasonable attorney's fees.

(e) Nothing in this section shall affect the validity of title to real property transferred in violation of the provisions of this section.

SEC. 3.5. Section 1360 of the Civil Code is amended to read:

1360. (a) The owner of a lot or unit in any of the subdivisions referred to in Section 11004.5 of the Business and Professions Code, other than an owner subject to the requirements of Section 11018.6 of the Business and Professions Code, shall, as soon as practicable before transfer of title or the execution of a real property sales contract as defined in Section 2985, give all of the following to the prospective purchaser:

(1) A copy of the declarations of restrictions, and, if the restrictions limit occupancy, residency, or use on the basis of age in a manner different from that provided in Section 51.3, also a statement that the restrictions are only enforceable to the extent permitted by Section 51.3 and a statement specifying the applicable provisions of Section 51.3.

(2) Bylaws.

(3) Articles of incorporation affecting rights to the property being offered for transfer.

(4) A true statement in writing from the governing body of any of the subdivisions referred to in Section 11004.5 of the Business and Professions Code as to the amount of any delinquent assessments and information relating to penalties, attorney's fees, and other charges therein as provided by the declaration of restrictions of the subdivision or the management documents of the governing body on the lot or unit as of the date the statement is issued.

(5) A copy of the most current financial statements, as defined in Section 1730, which have already been distributed to the owner of

such a unit.

(b) Upon written request, the governing body of any of the subdivisions referred to in subdivision (a) shall, within 10 days of the mailing or delivery of the request, provide the owner of a lot or unit in that subdivision (including the owner of a lot or unit prior to its initial sale or lease) with copies of the documents or statements specified in subdivision (a) which are applicable to the subdivision. The governing body may impose a fee for providing the documents and statement, but in no event shall the fee exceed the reasonable cost to prepare and reproduce the requested documents.

(c) Any person or entity who willfully violates the provisions of this section shall be liable to the purchaser of a lot or unit which is subject to the provisions of this section for the actual damages and in addition thereto shall pay the purchaser a penal sum in an amount not to exceed five hundred dollars ($500), and in an action to enforce this liability, the prevailing party shall be awarded reasonable attorney's fees.

(d) Nothing in this section shall affect the validity of title to real property transferred in violation of the provisions of this section

SEC. 4. Section 1368 is added to the Civil Code, to read:

1368. (a) The owner of a separate interest shall, as soon as practicable before the transfer of title or execution of a real property sales contract therefor, as defined in Section 2985, provide the following to the prospective purchaser:

(1) A copy of the governing documents of the common interest development.

(2) If there is a restriction in the governing documents limiting the occupancy, residency, or use of a separate interest on the basis of age in a manner different from that provided in Section 51.3, a statement that the restriction is only enforceable to the extent permitted by Section 51.3 and a statement specifying the applicable provisions of Section 51.3.

(3) A copy of the most recent financial statement distributed pursuant to Section 1365.

(4) A true statement in writing from an authorized representative of the association as to the amount of any assessments levied upon the owner's interest in the common interest development which are unpaid on the date of the statement. The statement shall also include true information on late charges, interest, and costs of collection which, as of the date of the statement, are or may be made a lien upon the owner's interest in a common interest development pursuant to Section 1367.

(b) Upon written request, an association shall, within 10 days of the mailing or delivery of the request, provide the owner of a separate interest with a copy of the requested items specified in paragraphs (1), (2), and (3) of subdivision (a). The association may charge a fee for this service, which shall not exceed the association's reasonable cost to prepare and reproduce the requested items.

(c) Any person or entity who willfully violates this section shall be

liable to the purchaser of a separate interest which is subject to this section for actual damages occasioned thereby and, in addition, shall pay a civil penalty in an amount not to exceed five hundred dollars ($500). In an action to enforce this liability, the prevailing party shall be awarded reasonable attorney's fees.

(d) Nothing in this section affects the validity of title to real property transferred in violation of this section.

(e) In addition to the requirements of this section, an owner transferring title to a separate interest shall comply with applicable requirements of Sections 1133 and 1134.

SEC. 5. Section 1368 is added to the Civil Code, to read:

1368. (a) The owner of a separate interest other than an owner subject to the requirements of Section 11018.1 of the Business and Professions Code shall, as soon as practicable before the transfer of title or execution of a real property sales contract therefor, as defined in Section 2985, provide the following to the prospective purchaser:

(1) A copy of the governing documents of the common interest development.

(2) If there is a restriction in the governing documents limiting the occupancy, residency, or use of a separate interest on the basis of age in a manner different from that provided in Section 51.3, a statement that the restriction is only enforceable to the extent permitted by Section 51.3 and a statement specifying the applicable provisions of Section 51.3.

(3) A copy of the most recent financial statement distributed pursuant to Section 1365.

(4) A true statement in writing from an authorized representative of the association as to the amount of any assessments levied upon the owner's interest in the common interest development which are unpaid on the date of the statement. The statement shall also include true information on late charges, interest, and costs of collection which, as of the date of the statement, are or may be made a lien upon the owner's interest in a common interest development pursuant to Section 1367.

(b) Upon written request, an association shall, within 10 days of the mailing or delivery of the request, provide the owner of a separate interest with a copy of the requested items specified in paragraphs (1), (2), and (3) of subdivision (a). The association may charge a fee for this service, which shall not exceed the association's reasonable cost to prepare and reproduce the requested items.

(c) Any person or entity who willfully violates this section shall be liable to the purchaser of a separate interest which is subject to this section for actual damages occasioned thereby and, in addition, shall pay a civil penalty in an amount not to exceed five hundred dollars ($500). In an action to enforce this liability, the prevailing party shall be awarded reasonable attorney's fees.

(d) Nothing in this section affects the validity of title to real property transferred in violation of this section.

(e) In addition to the requirements of this section, an owner

transferring title to a separate interest shall comply with applicable requirements of Sections 1133 and 1134.

SEC. 6. Section 3.5 of this bill incorporates amendments to Section 1360 of the Civil Code proposed by both this bill and AB 596. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 1360 of the Civil Code, (3) AB 314 is not enacted or, as enacted, does not add Section 1368 to the Civil Code, and (4) this bill is enacted after AB 596, in which case Section 3 of this bill shall not become operative.

SEC. 7. Section 4 of this bill shall only become operative if (1) AB 314 and this bill are enacted and become effective on January 1, 1986, (2) AB 314 adds Section 1368 to the Civil Code and this bill amends Section 1360 of the Civil Code, and (3) this bill is enacted after AB 314, in which case Section 1368 of the Civil Code, as proposed to be added by Section 14 of AB 314, and Section 1360, as proposed to be amended by Section 3 of this bill, shall not become operative.

SEC. 8. Section 5 of this bill shall only become operative if (1) AB 314, AB 596, and this bill are enacted and become effective on January 1, 1986, (2) AB 314 adds Section 1368 to the Civil Code, AB 596 amends Section 1360 of the Civil Code, and this bill amends Section 1360 of the Civil Code, and (3) this bill is enacted after AB 314 and AB 596, in which case Section 1368 of the Civil Code, as proposed to be added by Section 14 of AB 314, Section 1360 of the Civil Code as proposed to be amended by Section 2 or 2.5 of AB 596, and Section 1360 as proposed to be amended by Section 3 of this bill, shall not become operative.

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 1506

An act to add Section 266c to the Penal Code, relating to crime.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 266c is added to the Penal Code, to read:

266c. Every person who induces any other person, except the spouse of the perpetrator, to engage in sexual intercourse, oral copulation, or sodomy when his or her consent is procured by false or fraudulent representation or pretense that is made with the intent

to create fear, and which does induce fear, and that would cause a reasonable person in like circumstances to act contrary to the person's free will, and does cause the victim to so act, is punishable by imprisonment in either the county jail for not more than one year or in the state prison for two, three, or four years.

As used in this section, "fear" means the fear of unlawful physical injury or death to the person or to any relative of the person or member of the person's family.

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 1507

An act to amend, renumber, and add Sections 6735.1 and 6735.2 of, and to add Sections 5536.25 and 8761.2 to, the Business and Professions Code, relating to business and professions.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 5536.25 is added to the Business and Professions Code, to read:

5536.25. (a) A licensed architect who signs plans, specifications, reports, or documents shall not be responsible for damage caused by subsequent changes to or uses of those plans, specifications, reports, or documents, where the subsequent changes or uses, including changes or uses made by state or local governmental agencies, are not authorized or approved by the licensed architect who originally signed the plans, specifications, reports, or documents, provided that the architectural service rendered by the architect who signed the plans, specifications, reports, or documents was not also a proximate cause of the damage.

(b) The signing of plans, specifications, reports, or documents which relate to the design of fixed works shall not impose a legal duty or responsibility upon the person signing the plans, specifications, reports, or documents to observe the construction of the fixed works which are the subject of the plans, specifications, reports, or documents. However, nothing in this section shall preclude an architect and a client from entering into a contractual agreement which includes a mutually acceptable arrangement for the provision of construction observation services. Nothing contained in this subdivision shall modify the liability of an architect who undertakes,

contractually or otherwise, the provision of construction observation services for rendering those services.

SEC. 2. Section 6735.1 of the Business and Professions Code is amended and renumbered to read:

6735.3. All electrical engineering plans, specifications, reports, or documents prepared by a registered electrical engineer or by a subordinate under his or her direction shall be signed by the engineer to indicate his or her responsibility for them. In addition to his or her signature, the engineer shall show his or her registration number or the stamp of his or her seal.

SEC. 3. Section 6735.1 is added to the Business and Professions Code, to read:

6735.1. The signing of civil engineering plans, specifications, reports, or documents which relate to the design of fixed works shall not impose a legal duty or responsibility upon the person signing the plans, specifications, reports, or documents to supervise the construction of engineering structures or the construction of the fixed works which are the subject of the plans, specifications, reports, or documents. However, nothing in this section shall preclude a civil engineer and a client from entering into a contractual agreement which includes a mutually acceptable arrangement for the provision of construction supervision services. Nothing contained in this subdivision shall modify the liability of a civil engineer who undertakes, contractually or otherwise, the provision of construction supervision services for rendering those services.

SEC. 4. Section 6735.2 of the Business and Professions Code is amended and renumbered to read:

6735.4. All mechanical engineering plans, specifications, reports, or documents prepared by a registered mechanical engineer or by a subordinate under his or her direction shall be signed by the engineer to indicate his or her responsibility for them. In addition to his or her signature, the engineer shall show his or her registration number or the stamp of his or her seal.

SEC. 5. Section 6735.2 is added to the Business and Professions Code, to read:

6735.2. Notwithstanding Section 6735, a registered civil engineer who signs civil engineering plans, specifications, reports, or documents shall not be responsible for damage caused by subsequent changes to or uses of those plans, specifications, reports, or documents, where the subsequent changes or uses, including changes or uses made by state or local governmental agencies, are not authorized or approved by the registered engineer who originally signed the plans, specifications, reports, or documents, provided that the engineering service rendered by the civil engineer who signed the plans, specifications, reports, or documents was not also a proximate cause of the damage.

SEC. 6. Section 8761.2 is added to the Business and Professions Code, to read:

8761.2. Notwithstanding the provisions of Section 8761, a registered civil engineer or licensed land surveyor who signs land

surveying maps, plats, reports, descriptions, or other surveying documents shall not be responsible for damage caused by subsequent changes to or uses of those maps, plats, reports, descriptions, or other surveying documents, where the subsequent changes or uses, including changes or uses made by state or local governmental agencies, are not authorized or approved by the registered civil engineer or licensed land surveyor who originally signed the maps, plats, reports, descriptions, or other surveying documents, provided that the engineering or surveying service rendered by the civil engineer or land surveyor who signed the maps, plats, reports, descriptions, or other surveying documents was not also a proximate cause of the damage.

SEC. 7. Section 3 of this act, which adds Section 6735.1 to the Business and Professions Code, is intended to codify the case law in Wynner v. Buxton, 97 Cal. App. 3d 166.

CHAPTER 1508

An act to amend Section 20134 of the Government Code, relating to public employees, and making an appropriation therefor.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 20134 of the Government Code is amended to read:

20134. Data filed by any member or beneficiary with the board is confidential, and no individual record shall be divulged by any official or employee having access to it to any person other than the member to whom the information relates or his authorized representative, the contracting agency or school district by which he is employed, any state department or agency, or the university. Such information shall be used by the board for the sole purpose of carrying into effect the provisions of this part. Any information which is requested for retirement purposes by any public agency shall be treated as confidential by such agency.

The gross amount of any benefit is not confidential and may be released upon request to the board.

The board may seek reimbursement for reasonable administrative expenses incurred when providing that information.

Except as provided by this section, no member's, beneficiary's or annuitant's address, home telephone number, or other personal information shall be released.

SEC. 2. The Public Employment Relations Board shall continue to conduct a study of health care costs and the effectiveness of health care cost containment activities of public and private employers pursuant to Section 15 of Chapter 1258 of the Statutes of 1983.

The board shall provide results of the study to employers for the purpose of informing them how health care costs can be contained.

Upon conclusion of the study, the Public Employment Relations Board shall make recommendations to the Governor and the Legislature with respect to the effectiveness of health care cost containment alternatives for public and private employers.

SEC. 3. The sum of sixty thousand dollars ($60,000) is hereby appropriated from the General Fund to the Public Employment Relations Board for the purposes of this act.

CHAPTER 1509

An act to add Chapter 12.75 (commencing with Section 7060), to Division 7 of Title 1 of the Government Code, relating to real property.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1 Chapter 12.75 (commencing with Section 7060) is added to Division 7 of Title 1 of the Government Code, to read:

CHAPTER 12.75. RESIDENTIAL REAL PROPERTY

7060. (a) No public entity, as defined in Section 811.2, shall, by statute, ordinance, or regulation, or by administrative action implementing any statute, ordinance or regulation, compel the owner of any residential real property to offer, or to continue to offer, accommodations in the property for rent or lease.

(b) For the purposes of this chapter, "accommodations" means the following:

(1) The residential rental units in any detached physical structure containing four or more residential rental units.

(2) With respect to a detached physical structure containing three or fewer residential rental units, the residential rental units in that structure and in any other structure located on the same parcel of land, including any detached physical structure specified in paragraph (1).

7060.1. Notwithstanding Section 7060, nothing in this chapter does any of the following:

(a) Prevents a public entity from enforcing any contract or agreement by which an owner of residential real property has agreed to offer the accommodations for rent or lease in consideration for a direct financial contribution or, with respect to written contracts or agreements entered into prior to July 1, 1986, for any consideration. Any contract or agreement specified in this subdivision is not enforceable against a person who acquires title to the

accommodations as a bona fide purchaser for value (or successors in interest thereof), unless (1) the purchaser at the time of acquiring title to the accommodations has actual knowledge of the contract or agreement, or (2) a written memorandum of the contract or agreement which specifically describes the terms thereof and the affected real property, and which identifies the owner of the property, has been recorded with the county recorder prior to July 1, 1986, or not less than 30 days prior to transfer of title to the property to the purchaser. The county recorder shall index such a written memorandum in the grantor-grantee index.

As used in this subdivision, "direct financial contribution" includes contributions specified in Section 65916 and any form of interest rate subsidy or tax abatement provided to facilitate the acquisition or development of real property.

(b) Diminishes or enhances, except as specifically provided in Section 7060.2, any power which currently exists or which may hereafter exist in any public entity to grant or deny any entitlement to the use of real property, including, but not limited to, planning, zoning, and subdivision map approvals.

(c) (1) Diminishes or enhances any power which currently exists or which may hereafter exist in any public entity to mitigate any adverse impact on persons displaced by reason of the withdrawal from rent or lease of any accommodations in any residential hotel, as defined by Section 50519 of the Health and Safety Code, which is expressly reserved, or generally used, for occupancy by lower income households, as defined by Section 50079.5 of the Health and Safety Code.

(2) The reference to residential hotels in paragraph (1) is not intended by the Legislature to diminish or enhance any power which currently exists or which may hereafter exist in any public entity to require those same actions for other types of accommodations.

(d) Supersedes any provision of Chapter 16 (commencing with Section 7260) of this division, Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of this code, Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code, Part 2 (commencing with Section 43) of Division 1 of the Civil Code, Title 5 (commencing with Section 1925) of Part 4 of Division 3 of the Civil Code, Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of the Code of Civil Procedure, or Division 24 (commencing with Section 33000) of the Health and Safety Code.

(e) Relieves any party to a lease or rental agreement of the duty to perform any obligation under that lease or rental agreement.

7060.2. If a public entity, by valid exercise of its police power, has in effect any control or system of control on the price at which accommodations may be offered for rent or lease, that entity may, notwithstanding any provision of this chapter, provide by statute or ordinance, or by regulation as specified in Section 7060.5, that any accommodations which have been offered for rent or lease and which were subject to that control or system of control at the time

the accommodations were withdrawn from rent or lease, shall be subject to the following:

(a) If the accommodations are offered again for rent or lease for residential purposes within one year of the date the accommodations were withdrawn from rent or lease, the following provisions shall govern:

(1) The accommodations shall be subject to any control on the price at which they may be offered in the manner and to the same extent as if the accommodations had not been withdrawn from rent or lease. This paragraph shall prevail over any conflicting provision of law authorizing the landlord to establish the rental rate upon the initial hiring of the accommodations.

(2) The owner of the accommodations shall be liable to any tenant or lessee who was displaced from the property by that action for actual damages which were the proximate result of that displacement, as defined and limited by the standards for compensation or payments applied to public entities with respect to rental dwellings by Sections 7262 and 7264, and punitive damages in an amount which does not exceed the contract rent for six months. Any action by a tenant or lessee pursuant to this paragraph shall be brought within two years of that displacement. However, nothing in this paragraph precludes a tenant from pursuing any alternative remedy available under the law.

(3) A public entity which has acted pursuant to this section may institute a civil proceeding against any owner who has again offered accommodations for rent or lease subject to this subdivision, for exemplary damages for displacement of tenants or lessees. The exemplary damages shall not exceed the contract rent for six months for any unit or units from which a tenant or lessee was displaced by withdrawal of the unit from rent or lease pursuant to this chapter. Any action by a public entity pursuant to this paragraph shall be brought within three years of the withdrawal of the accommodations from rent or lease.

(4) Any owner who offers accommodations again for rent or lease shall first offer the unit for rent or lease to the tenant or lessee displaced from that unit by the withdrawal pursuant to this chapter, if the tenant has advised the owner in writing within 30 days of the displacement of his or her desire to consider an offer to renew the tenancy and has furnished the owner with an address to which that offer is to be directed. That tenant, lessee, or former tenant or lessee may advise the owner at any time during the eligibility of a change of address to which an offer is to be directed.

If the owner again offers the accommodations for rent or lease pursuant to this subdivision, and the tenant or lessee has advised the owner pursuant to this subdivision of a desire to consider an offer to renew the tenancy, then the owner shall offer to reinstitute a rental agreement or lease on terms permitted by law to that displaced tenant or lessee.

This offer shall be deposited in the United States mail, by registered or certified mail with postage prepaid, addressed to the

displaced tenant or lessee at the address furnished to the owner as provided in this subdivision, and shall describe the terms of the offer. The displaced tenant or lessee shall have 30 days from the deposit of the offer in the mail to accept the offer by personal delivery of that acceptance or by deposit of the acceptance in the United States mail by registered or certified mail with postage prepaid.

(b) (1) If the accommodations are offered again for residential purposes more than one year after the date the accommodations were withdrawn from rent or lease, the accommodations shall be subject to any control on the price at which they may be offered in the manner and to the same extent as if the accommodations had not been withdrawn from rent or lease, subject to any adjustments otherwise available under the system of control. This subdivision shall prevail over any conflicting provision of law authorizing the landlord to establish the rental rate upon the initial hiring of the accommodations.

(2) A public entity which has acted pursuant to this section, may require by statute or ordinance, or by regulation as specified in Section 7060.5, that an owner who offers accommodations again for rent or lease within a period not exceeding 10 years from the date on which they are withdrawn, and which are subject to this subdivision, shall first offer the unit to the tenant or lessee displaced from that unit by the withdrawal, if that tenant or lessee requests the offer in writing within 30 days after the owner has notified the public entity of an intention to offer the accommodations again for residential rent or lease pursuant to a requirement adopted by the public entity under subdivision (c) of Section 7060.4. The owner of the accommodations shall be liable to any tenant or lessee who was displaced by that action for failure to comply with this paragraph, for punitive damages in an amount which does not exceed the contract rent for six months.

(c) If the accommodations are demolished, and new accommodations are constructed on the same property, and offered for rent or lease within five years of the date the accommodations were withdrawn from rent or lease, the newly constructed accommodations shall be subject to any system of controls on the price at which they would be offered on the basis of a fair and reasonable return on the newly constructed accommodations, notwithstanding any exemption from such a system of controls for newly constructed accommodations.

7060.3. If a public entity determines to apply constraints pursuant to Section 7060.2 to a successor in interest of an owner who has withdrawn accommodations from rent or lease, the public entity shall record a notice with the county recorder which shall specifically describe the real property where the accommodations are located and the dates applicable. The notice shall be indexed in the grantor-grantee index.

A person who acquires title to the real property subsequent to the date upon which the accommodations thereon have been withdrawn

from rent or lease, as a bona fide purchaser for value, shall not be a successor in interest for the purposes of this chapter if the notice prescribed by this section has not been recorded with the county recorder at least one day before the transfer of title.

7060.4. (a) Any public entity which, by a valid exercise of its police power, has in effect any control or system of control on the price at which accommodations are offered for rent or lease, may require by statute or ordinance, or by regulation as specified in Section 7060.5, that the owner notify the entity of an intention to withdraw those accommodations from rent or lease and may require that the notice contain statements, under penalty of perjury, providing information on the number of accommodations, the address or location of those accommodations, the name or names of the tenants or lessees of the accommodations, and the rent applicable to each residential rental unit.

Information respecting the name or names of the tenants, the rent applicable to any residential rental unit, or the total number of accommodations, is confidential information and for purposes of this chapter shall be treated as confidential information by any public entity for purposes of the Information Practices Act of 1977, as contained in Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code. A public entity shall, to the extent required by the preceding sentence, be considered an "agency," as defined by subdivision (d) of Section 1798.3 of the Civil Code.

The statute, ordinance, or regulation of the public entity may require that the owner record with the county recorder a memorandum summarizing the provisions, other than the confidential provisions, of the notice in a form which shall be prescribed by the statute, ordinance, or regulation, and require a certification with that notice that actions have been initiated as required by law to terminate any existing tenancies. In that situation, the date on which the accommodations are withdrawn from rent or lease for purposes of this chapter is 60 days from the delivery in person or by first-class mail of that notice to the public entity.

(b) The statute, ordinance, or regulation of the public entity adopted pursuant to subdivision (a) may also require the owner to notify any tenant or lessee displaced pursuant to this chapter that the public entity has been notified pursuant to subdivision (a), that the notice to the public entity specified the name and the amount of rent paid by the tenant or lessee as an occupant of the accommodations, and the amount of rent the owner specified in the notice to the public entity, together with a notice to the tenant or lessee of his or her rights under paragraph (4) of subdivision (a) of Section 7060.2.

(c) The statute, ordinance, or regulation of the public entity adopted pursuant to subdivision (a) may also require the owner to notify the public entity in writing of an intention to again offer the accommodations for rent or lease.

7060.5. The actions authorized by Sections 7060.2 and 7060.4 may be taken by regulation adopted after public notice and hearing by a

public body of a public entity, if the members of the body have been elected by the voters of the public entity. The regulation shall be subject to referendum in the manner prescribed by law for the ordinances of the legislative body of the public entity except that:

(a) The decision to repeal the regulation or to submit it to the voters shall be made by the public body which adopted the regulation.

(b) The regulation shall become effective upon adoption by the public body of the public entity and shall remain in effect until a majority of the voters voting on the issue vote against the regulation, notwithstanding Section 4050, 4051, or 4055 of the Elections Code or any other law.

7060.6. If an owner seeks to displace a tenant or lessee from accommodations withdrawn from rent or lease pursuant to this chapter by an unlawful detainer proceeding, the tenant or lessee may appear and answer or demur pursuant to Section 1170 of the Code of Civil Procedure and may assert by way of defense that the owner has not complied with the applicable provisions of this chapter, or statutes, ordinances, or regulations of public entities adopted to implement this chapter, as authorized by this chapter.

7060.7. It is the intent of the Legislature in enacting this chapter to supersede any holding or portion of any holding in Nash v. City of Santa Monica, 37 Cal. 3d 97 to the extent that the holding, or portion of the holding, conflicts with this chapter, so as to permit landlords to go out of business. However, this act is not otherwise intended to do any of the following:

(1) Interfere with local governmental authority over land use, including regulation of the conversion of existing housing to condominiums or other subdivided interests.

(2) Override procedural protections designed to prevent abuse of the right to evict tenants.

(3) Permit an owner to withdraw from rent or lease less than all of the accommodations, as defined by paragraph (1) or (2) of subdivision (b) of Section 7060.

(4) Grant to any public entity any power which it does not possess independent of this chapter to control or establish a system of control on the price at which accommodations may be offered for rent or lease, or to diminish any such power which that public entity may possess, except as specifically provided in this chapter.

(5) Alter in any way either Section 65863.7 relating to the withdrawal of accommodations which comprise a mobilehome park from rent or lease or subdivision (f) of Section 798.56 of the Civil Code relating to a change of use of a mobilehome park.

SEC. 2. Section 1 of this act shall become operative on July 1, 1986.

SEC. 3. If any provision of Section 1 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 invalid provision or application, and to this end the provisions of this act are severable.

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 1510

An act to amend Section 987.9 of, to add Section 190.05 to, the Penal Code, relating to criminal justice.

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

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

SECTION 1. Section 190.05 is added to the Penal Code, to read:

190.05. (a) The penalty for a defendant found guilty of murder in the second degree, who has served a prior prison term for murder in the first or second degree, shall be confinement in the state prison for a term of life without the possibility of parole or confinement in the state prison for a term of 15 years to life. For purposes of this section, a prior prison term for murder of the first or second degree is that time period in which a defendant has spent actually incarcerated for his or her offense prior to release on parole.

(b) A prior prison term for murder for purposes of this section includes either of the following:

(1) A prison term served in any state prison or federal penal institution, including confinement in a hospital or other institution or facility credited as service of prison time in the jurisdiction of confinement, as punishment for the commission of an offense which includes all of the elements of murder in the first or second degree as defined under California law.

(2) Incarceration at a facility operated by the Youth Authority for murder of the first or second degree when the person was subject to the custody, control, and discipline of the Director of Corrections.

(c) The fact of a prior prison term for murder in the first or second degree shall be alleged in the accusatory pleading, 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 a plea of guilty or nolo contendere or by trial by the court sitting without a jury.

(d) In case of a reasonable doubt as to whether the defendant served a prior prison term for murder in the first or second degree, the defendant is entitled to a finding that the allegation is not true.

(e) If the trier of fact finds that the defendant has served a prior prison term for murder in the first or second degree, there shall be a separate penalty hearing before the same trier of fact, except as provided in subdivision (f).

(f) If the defendant was convicted by the court sitting without a jury, the trier of fact at the penalty hearing shall be a jury unless a jury is waived by the defendant and the people, in which case the trier of fact shall be the court. If the defendant was convicted by a plea of guilty or nolo contendere, the trier of fact shall be a jury unless a jury is waived by the defendant and the people.

If the trier of fact is a jury and has been unable to reach a unanimous verdict as to what the penalty shall be, the court shall dismiss the jury and shall order a new jury impaneled to try the issue as to what the penalty shall be. If the new jury is unable to reach a unanimous verdict as to what the penalty shall be, the court in its discretion shall either order a new jury or impose a punishment of confinement in the state prison for a term of 15 years to life.

(g) Evidence presented at any prior phase of the trial, including any proceeding under a plea of not guilty by reason of insanity pursuant to Section 1026, shall be considered at any subsequent phase of the trial, if the trier of fact of the prior phase is the same trier of fact at the subsequent phase.

(h) In the proceeding on the question of penalty, evidence may be presented by both the people and the defendant as to any matter relevant to aggravation, mitigation, and sentence, including, but not limited to, the nature and circumstances of the present offense, any prior felony conviction or convictions whether or not such conviction or convictions involved a crime of violence, the presence or absence of other criminal activity by the defendant which involved the use or attempted use of force or violence or which involved the express or implied threat to use force or violence, and the defendant's character, background, history, mental condition, and physical condition.

However, no evidence shall be admitted regarding other criminal activity by the defendant which did not involve the use or attempted use of force or violence or which did not involve the express or implied threat to use force or violence. As used in this section, criminal activity does not require a conviction.

However, in no event shall evidence of prior criminal activity be admitted for an offense for which the defendant was prosecuted and acquitted. The restriction on the use of this evidence is intended to apply only to proceedings pursuant to this section and is not intended to affect statutory or decisional law allowing such evidence to be used in any other proceedings.

Except for evidence in proof of the offense or the prior prison term for murder of the first or second degree which subjects a defendant to the punishment of life without the possibility of parole, no evidence may be presented by the prosecution in aggravation unless notice of the evidence to be introduced has been given to the defendant within a reasonable period of time as determined by the court, prior to trial. Evidence may be introduced without such notice in rebuttal to evidence introduced by the defendant in mitigation.

In determining the penalty, the trier of fact shall take into account any of the following factors if relevant:

(1) The circumstances of the crime of which the defendant was convicted in the present proceeding and the existence of the prior prison term for murder.

(2) The presence or absence of criminal activity by the defendant which involved the use or attempted use of force or violence or the express or implied threat to use force or violence.

(3) The presence or absence of any prior felony conviction.

(4) Whether or not the offense was committed while the defendant was under the influence of extreme mental or emotional disturbance.

(5) Whether or not the victim was a participant in the defendant's homicidal conduct or consented to the homicidal act.

(6) Whether or not the offense was committed under circumstances which the defendant reasonably believed to be a moral justification or extenuation for his or her conduct.

(7) Whether or not the defendant acted under extreme duress or under the substantial domination of another person.

(8) Whether or not at the time of the offense the ability of the defendant to appreciate the criminality of his or her conduct or to conform his or her conduct to the requirements of law was impaired as a result of mental disease or defect, or the effects of intoxication

(9) The age of the defendant at the time of the crime.

(10) Whether or not the defendant was an accomplice to the offense and his or her participation in the commission of the offense was relatively minor.

(11) Any other circumstance which extenuates the gravity of the crime even though it is not a legal excuse for the crime.

After having heard and received all of the evidence, and after having heard and considered the arguments of counsel, the trier of fact shall consider, take into account, and be guided by the aggravating and mitigating circumstances referred to in this section, and shall impose a sentence of life without the possibility of parole if the trier of fact concludes that the aggravating circumstances outweigh the mitigating circumstances. If the trier of fact determines that the mitigating circumstances outweigh the aggravating circumstances, the trier of fact shall impose a sentence of confinement in the state prison for 15 years to life.

(i) Nothing in this section shall be construed to prohibit the charging of finding of any special circumstance pursuant to Sections 190.1, 190.2, 190.3, 190.4, and 190.5.

SEC. 2. Section 987.9 of the Penal Code is amended to read:

987.9. In the trial of a capital case or a case under subdivision (a) of Section 190.05 the indigent defendant, through his or her counsel, may request the court for funds for the specific payment of investigators, experts, and others for the preparation or presentation of the defense. The application for funds shall be by affidavit and shall specify that the funds are reasonably necessary for the preparation or presentation of the defense. The fact that an application has been made shall be confidential and the contents of the application shall be confidential. Upon receipt of an application,

a judge of the court, other than the trial judge presiding over the case in question, shall rule on the reasonableness of the request and shall disburse an appropriate amount of money to the defendant's attorney. The ruling on the reasonableness of the request shall be made at an in camera hearing. In making the ruling, the court shall be guided by the need to provide a complete and full defense for the defendant.

The Controller shall not reimburse any county for costs that exceed Board of Control standards for travel and per diem expenses. The Controller may reimburse extraordinary costs in unusual cases if the county provides sufficient documentation of the need for such expenditures.

At the termination of the proceedings, the attorney shall furnish to the court a complete accounting of all moneys received and disbursed pursuant to this section.

SEC. 3. Section 987.9 of the Penal Code is amended to read:

987.9. In the trial of a capital case or a case under subdivision (a) of Section 190.05 the indigent defendant, through the defendant's counsel, may request the court for funds for the specific payment of investigators, experts, and others for the preparation or presentation of the defense. The application for funds shall be by affidavit and shall specify that the funds are reasonably necessary for the preparation or presentation of the defense. The fact that an application has been made shall be confidential and the contents of the application shall be confidential. Upon receipt of an application, a judge of the court, other than the trial judge presiding over the case in question, shall rule on the reasonableness of the request and shall disburse an appropriate amount of money to the defendant's attorney. The ruling on the reasonableness of the request shall be made at an in camera hearing. In making the ruling, the court shall be guided by the need to provide a complete and full defense for the defendant.

The Controller shall not reimburse any county for costs that exceed Board of Control standards for travel and per diem expenses. The Controller may reimburse extraordinary costs in unusual cases if the county provides sufficient documentation of the need for those expenditures.

At the termination of the proceedings, the attorney shall furnish to the court a complete accounting of all moneys received and disbursed pursuant to this section.

The Controller shall adopt regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, controlling reimbursements under this section. The regulations shall consider compensation for investigators, expert witnesses, and other expenses that may or may not be reimbursable pursuant to this section. Notwithstanding the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the Controller shall follow any regulations adopted until final approval by the Office of Administrative Law.

SEC. 4. Section 3 of this bill incorporates amendments to Section 987.9 of the Penal Code proposed by both this bill and AB 344. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 987.9 of the Penal Code, and (3) this bill is enacted after AB 344, in which case Section 2 of this bill shall not become operative.

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.

CHAPTER 1511

An act to amend Section 3041.5 of the Penal Code, and to amend Section 23231 of the Vehicle Code, relating to criminal punishment, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 3041.5 of the Penal Code is amended to read:

3041.5. (a) At all hearings for the purpose of reviewing a prisoner's parole suitability, or the setting, postponing or rescinding of parole dates:

(1) At least 10 days prior to any hearing by the Board of Prison Terms, the prisoner shall be permitted to review his or her file which will be examined by the board and shall have the opportunity to enter a written response to any material contained in such file.

(2) The prisoner shall be permitted to be present, to ask and answer questions, and to speak on his own behalf.

(3) Unless legal counsel is required by some other provision of law, a person designated by the Department of Corrections shall be present to insure that all facts relevant to the decision be presented, including, if necessary, contradictory assertions as to matters of fact that have not been resolved by departmental or other procedures

(4) The prisoner shall be permitted to request and receive a stenographic record of all proceedings.

(5) If the hearing is for the purpose of postponing or rescinding of parole dates, the prisoner will have rights set forth in paragraphs (3) and (5) of subdivision (a) of Section 2932.

(b) (1) Within 10 days following any meeting where a parole date has been set, the board shall send the prisoner a written statement setting forth his parole date, the conditions he must meet in order to be released on the date set, and the consequences of failure to meet such conditions.

(2) Within 20 days following any meeting where a parole date has not been set for the reasons stated in subdivision (b) of Section 3041, the board shall send the prisoner a written statement setting forth the reason or reasons for refusal to set a parole date; and suggest activities in which he might participate that will benefit him while he is incarcerated.

The board shall hear each case annually thereafter, except the board may schedule the next hearing no later than (A) two years after any hearing at which parole is denied if the board finds that it is not reasonable to expect that parole would be granted at a hearing during the following year and states the bases for the finding or, (B) three years after any hearing at which parole is denied if the prisoner has been convicted, in the same or different proceedings, of more than one offense which involves the taking of a life, and the board finds that it is not reasonable to expect that parole would be granted at a hearing during the following years and states the bases for the finding.

(3) Within 10 days of any board action resulting in the postponement of a previously set parole date, the board shall send the prisoner a written statement setting forth a new date and the reason or reasons for such action and shall offer the prisoner an opportunity for review of such action.

(4) Within 10 days of any board action resulting in the rescinding of a previously set parole date, the board shall send the prisoner a written statement setting forth the reason or reasons for such action, and shall schedule the prisoner's next hearing within 12 months and in accordance with paragraph (2).

SEC. 2. Section 23231 of the Vehicle Code is amended to read:

23231. Placements pursuant to this article shall be made exclusively in alcohol rehabilitation facilities certified and approved as provided in this section. For purposes of this chapter, "alcohol rehabilitation facility" means a social rehabilitation facility licensed pursuant to Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code, or any other facility licensed by the State Department of Health Services or the State Department of Social Services for the custodial, residential treatment of drug or alcohol abuse, which is approved and certified by the State Department of Alcohol and Drug Programs under this article. An alcohol rehabilitation facility shall conform to the standards established by the Board of Corrections pursuant to Section 6030 of the Penal Code for local detention facilities classified as a "Type IV facility" by paragraph (6) of subdivision (b) of Section 1006 of Title 15 of the California Administrative Code.

An alcohol rehabilitation facility shall be certified by the county alcohol program administrator and approved by the county board of supervisors. To qualify, a facility shall have written policies and procedures, regularly reviewed at least annually by the county alcohol program administrator, on monitoring the movement of program participants while inside or outside the facility and

accounting for their movements and location at all times when outside of the facility. The policies and procedures shall also specify conditions under which participants may leave the facility, provision for detection of unauthorized absences, and provision for notifying the court of unauthorized absences or other violations of program rules.

Additionally, each alcohol rehabilitation facility shall be approved and monitored by the county probation department as to the adequacy of the custodial care provided, which shall, as near as possible, be equivalent to other types of facilities providing similar levels of custodial care.

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 Board of Prison Terms may properly conduct hearings, and in order to permit the proper utilization of sentencing alternatives, it is necessary for this act to take effect immediately.

CHAPTER 1512

An act to add and repeal Section 99301.5 of the Public Utilities Code, relating to transportation.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 99301.5 is added to the Public Utilities Code, to read:

99301.5. Notwithstanding Sections 99232, 99233, and 99301, the Orange County Transportation Commission may direct the transportation planning agency to allocate interest accruing on and after January 1, 1985, from money retained for the development of transit in the local transportation fund of the County of Orange, to the County of Orange, to cities within the county, and to the Department of Transportation to expend for purposes within the County of Orange, as determined by the Orange County Transportation Commission, which could be funded by motor vehicle fuel taxes pursuant to Section 1 of Article XIX of the California Constitution. When determining the purposes for which the money is to be expended, the Orange County Transportation Commission shall ensure that the money is allocated in substantially equal proportions to local streets and roads and to state highways for purposes which include, but are not limited to, the resurfacing, rehabilitation, and reconstruction of existing state highways and local streets and roads.

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.

CHAPTER 1513

An act to amend Sections 1194.8 and 1194.85 of the Insurance Code, relating to insurance.

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

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

SECTION 1. Section 1194.8 of the Insurance Code is amended to read:

1194.8. (a) Excess fund investments may be made by a domestic insurer in real estate and leases thereof and in making improvements thereon for business or residential purposes as an investment for the production of income. The phrase "business or residential purposes" shall not include real estate or leases primarily intended for use or valued as agricultural, horticultural, farm, ranch or mineral property. Any such investment may be made by admitted insurers having admitted assets aggregating in value not less than twenty-five million dollars ($25,000,000).

Domestic insurers, other than life, title, mortgage and mortgage guaranty insurers, having admitted assets aggregating in value less than twenty-five million dollars ($25,000,000) but not less than ten million dollars ($10,000,000) may also qualify to make such investments for a period of 12 months with the prior approval of the commissioner. Real estate and leases acquired and improvements made thereon under this section shall not exceed in the aggregate an amount equal to 10 percent of the insurer's admitted assets. Real estate and leases acquired under this section shall be in addition to that which is authorized to be acquired under the provisions of paragraphs (a) to (h), inclusive, of Section 1150. Except upon the prior approval in writing of the commissioner, an investment may not be made under the authority of this section if at the time of the making of such investment it would result in the insurer then owning real estate and leases thereof, other than of the kind and for the purposes described in paragraphs (a), (b), and (f) of Section 1150, in an amount exceeding 10 percent of the insurer's admitted assets. Any investment in a single parcel of real estate or in a single leasehold including improvements thereon made under the authority of this section shall not be made in an amount in excess of 1 percent of the insurer's admitted assets or 10 percent of the aggregate of the insurer's capital paid-up and unassigned surplus, whichever amount is larger. A lease eligible for purchase hereunder

shall be for a term which at the date of purchase shall not expire for at least 24 years. Percentage or dollar value of assets and capital paid-up and unassigned surplus as provided herein shall be determined by the insurer's last preceding annual statement of conditions and affairs made as of the December 31st last preceding and which has been filed with the commissioner pursuant to law.

(b) In computing the value of real estate held by a domestic insurer for the purpose of complying with the asset standards or percentage of asset standards, the insurer shall add the net equity of such real estate owned by the insured to the amount of encumbrances and liens against the property for which the insurer could be held liable for any deficiency in the event of foreclosure or other action to realize the value of such liens. "Net equity" as used in this section means book value less the value of liens and encumbrances.

(c) Notwithstanding subdivision (a) or Section 1100, excess fund investments may be made by a domestic life insurer as an investment for the production of income in interests in publicly traded limited partnerships, limited partnerships in which the life insurer is the general partner, general partnerships, or in shares of beneficial interests in trusts substantially all the assets of which are real estate or leases thereof or improvements thereon for business or residential purposes. "Business or residential purposes" does not include real estate or leases primarily intended for use or valued as agricultural, horticultural, farm, ranch, or mineral property. Any investment authorized by this subdivision may be made by domestic life insurers having admitted assets aggregating in value not less than one hundred million dollars ($100,000,000).

Investments acquired pursuant to this subdivision shall be in addition to investments authorized to be acquired under subdivisions (a) to (h), inclusive, of Section 1150. Except upon the prior approval in writing of the commissioner, an investment may not be made under the authority of this subdivision in a general partnership or a nonpublicly traded trust if at the time of the making of the investment it would result in the life insurer owning aggregate interests in those investments in an amount exceeding 3 percent of the life insurer's admitted assets. Except upon the prior approval in writing of the commissioner, an investment may not be made if at the time it would result in the life insurer owning interests in general or limited partnerships or in shares of beneficial interests in trusts in an amount exceeding 10 percent of the life insurer's admitted assets.

An investment in a single partnership or shares of beneficial interest in a single trust made pursuant to this subdivision shall not be made in an amount in excess of 1 percent of the life insurer's admitted assets or 10 percent of the aggregate of the life insurer's capital paid-up and unassigned surplus, whichever is larger. Percentage or dollar value of assets and capital paid-up and unassigned surplus as provided herein shall be determined by the life insurer's last preceding annual statement of conditions and affairs

made as of the December 31st last preceding and which has been filed with the commissioner pursuant to applicable provisions of law.

For purposes of this subdivision, "publicly traded" means securities of a limited partnership or trust listed and traded on a securities exchange subject to regulation, supervision, or control under a statute of the United States or listed on the NASDAQ system.

(d) Investments made pursuant to subdivisions (a) and (c) shall not exceed in the aggregate an amount equal to 10 percent of the insurer's admitted assets except with the prior written consent of the commissioner.

SEC. 2. Section 1194.85 of the Insurance Code is amended to read:

1194.85. In any case in which a domestic insurer has requested the approval of the commissioner to make the investments specified in subdivision (a) or (c) of Section 1194.8, that insurer shall reimburse the department for all actual expenses, not to exceed five hundred dollars ($500), incurred by it in making a determination of whether to approve or disapprove that request.

CHAPTER 1514

An act to amend Section 5536 of the Public Resources Code, relating to parks and recreation.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. 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) All vacancies on the board shall be filled in accordance with the requirements of Section 1780 of the Government Code, except that, in the case of vacancies caused by the creation of new wards or subdistricts, the directors shall, prior to the vacancies being filled, determine by lot, for the purpose of fixing the terms of the first directors to be elected to the wards or subdistricts, which ward or subdistrict shall have a four-year term and which ward or subdistrict shall have a two-year term. The persons who fill the vacancies caused by the establishment of new wards or subdistricts shall hold office until the next general election and until their successors are elected and qualified for the terms previously determined by lot.

CHAPTER 1515

An act to amend Section 17913 of the Business and Professions Code, and to amend Section 117.41 of the Code of Civil Procedure, relating to small claims court.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 17913 of the Business and Professions Code is amended to read:

17913. (a) The fictitious business name statement shall contain all of the information required by this subdivision and shall be substantially in the following form:

FICTITIOUS BUSINESS NAME STATEMENT

The following person (persons) is (are) doing business as * ____
at ** _____ :
*** _____
_____
_____
_____
This business is conducted by ****_____
The registrant commenced to transact business under the fictitious business name or names listed above on
***** _____
Signed _____
Statement filed with the County Clerk of _____ County on
_____

NOTICE—THIS FICTITIOUS NAME STATEMENT EXPIRES ON DECEMBER 31, 19____. A NEW FICTITIOUS BUSINESS NAME STATEMENT MUST BE FILED PRIOR TO DECEMBER 31, 19____.

(b) The statement shall contain the following information set forth in the manner indicated in the form provided by subdivision (a):

(1) Where the asterisk (*) appears in the form, insert the fictitious business name or names. Only those businesses operated at the same address may be listed on one statement.

(2) Where the two asterisks (**) appear in the form: If the registrant has a place of business in this state, insert the street address of his principal place of business in this state. If the registrant has no place of business in this state, insert the street address of his principal place of business outside this state.

(3) Where the three asterisks (***) appear in the form: If the registrant is an individual, insert his full name and residence address. If the registrant is a partnership or other association of persons, insert the full name and residence address of each general partner. If the registrant is a business trust, insert the full name and residence address of each trustee. If the registrant is a corporation, insert the name of the corporation as set out in its articles of incorporation and the state of incorporation.

(4) Where the four asterisks (****) appear in the form, insert whichever of the following best describes the nature of the business: (i) "an individual," (ii) "a general partnership," (iii) "a limited partnership," (iv) "an unincorporated association other than a partnership," (v) "a corporation," (vi) "a business trust," (vii) "copartners," (viii) "husband and wife," (ix) "joint venture," or (x) "other—please specify."

(5) Where the five asterisks (*****) appear in the form, insert the date on which the registrant first commenced to transact business under the fictitious business name or names listed, if already transacting business under that name or names. If the registrant has not yet commenced to transact business under the fictitious business name or names listed, insert the statement, "Not applicable."

SEC. 2. Section 117.41 of the Code of Civil Procedure is amended to read:

117.41. (a) A corporation may appear in small claims court only through an employee or a duly appointed or elected officer or director, employed, appointed, or elected for purposes other than the exclusive representation of the corporation in small claims court. Any other entity which is not a natural person may appear in small claims court only through a regularly employed person of that entity, employed for purposes other than the exclusive representation of the entity in small claims court.

(b) An action filed by a party who lacks standing under Section

17918 of the Business and Professions Code shall be dismissed without prejudice.

(c) The representative of a plaintiff which is not a natural person shall affirm that he or she is authorized to represent that party, and identify the basis for such authorization under subdivision (a), under penalty of perjury. A party filing a claim in a fictitious business name shall state under penalty of perjury its compliance with Section 17918 of the Business and Professions Code. The provisions of this section shall be implemented in accordance with rules and forms adopted by the Judicial Council.

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 1516

An act to repeal and add Section 52483 to the Education Code, relating to education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 52483 of the Education Code is repealed.

SEC. 2. Section 52483 is added to the Education Code, to read:

52483. State funding for the Institute for Computer Technology shall be provided only on a matching basis, so that the total dollar amount received by the institute from participating school districts or private sources over the preceding three-year period whether by direct funding or in-kind support, equals or exceeds the total dollar amount provided by the state for that same period.

SEC. 3. 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. 4. The Legislative Analyst is hereby directed to conduct a review of the Institute for Computer Technology, to be included in

the Analysis of the Budget Bill for the 1986–87 fiscal year, which shall address the effectiveness of the proposed model curriculum materials and training programs that the institute plans to disseminate to school districts, and recommendations for funding of this function.

SEC. 5. The Institute for Computer Technology shall, no later than December 31, 1985, report to the Legislature regarding its funding needs for the 1986–87 fiscal year and its projections for any changes in funding needs thereafter.

SEC. 6. The Institute for Computer Technology shall perform the following responsibilities during the 1985–86 fiscal year:

(a) Identify the specific components of the institute model program, field test the capacity of school districts and other local entities to replicate all or part of the model program, and, based on the results of the field test, prepare the curriculum materials and training programs required to assist school districts and other local entities in replicating the model program. The State Department of Education shall assist the institute in identifying potential sites for other computer technology programs, and in publicizing the institute's training and assistance resources.

(b) Demonstrate the model program for school districts and other local entities, in cooperation with the State Department of Education. The department shall organize training activities and provide planning to assist the institute in providing its training and assistance resources to school districts and other local entities interested in the model program.

SEC. 7. In addition to any amounts appropriated pursuant to the Budget Act of 1985, the sum of two hundred thousand dollars ($200,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction for apportionment to the Institute for Computer Technology during the period from the effective date of this act to June 30, 1987, for the purposes of preparation and submittal of the report required by Section 3 of this act, for the purposes set forth in Section 4 of this act, and for curriculum development pursuant to Article 8 (commencing with Section 52480) of Chapter 9 of Part 28 of the Education Code.

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

In order that the Institute for Computer Technology may be adequately funded until June 30, 1986, 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 1517

An act to amend Sections 8880.5, 8880.21, and 8880.37 of the Government Code, relating to the California State Lottery, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 8880.5 of the Government Code is amended to read:

8880.5. Allocations for Education

The California State Lottery Education Fund is created within the State Treasury, and is continuously appropriated for carrying out the purposes of this chapter. The Controller shall draw warrants on this fund and distribute them quarterly in the following manner, provided that the payments specified in subdivisions (a), (b), (c), and (d) shall be equal per capita amounts:

(a) Payments shall be made directly to public school districts, including county superintendents of schools, serving grades kindergarten through 12, or any part thereof, on the basis of an equal amount for each unit of average daily attendance, as defined by law.

(b) Payments shall also be made directly to public school districts serving community colleges, on the basis of an equal amount for each unit of average daily attendance, as defined by law.

(c) Payments shall also be made directly to the Board of Trustees of the California State University on the basis of an amount for each unit of equivalent full-time enrollment. Funds received by the trustees shall be deposited in and expended from the California State University Lottery Education Fund which is hereby created.

(d) Payments shall also be made directly to the Regents of the University of California on the basis of an amount for each unit of equivalent full-time enrollment.

(e) Payments shall also be made directly to the Board of Directors of the Hastings College of the Law on the basis of an amount for each unit of equivalent full-time enrollment.

(f) Payments shall also be made directly to the California Maritime Academy Board of Governors on the basis of an amount for each unit of equivalent full-time enrollment.

(g) No Budget Act or other statutory provision shall direct that payments for public education made pursuant to this chapter be used for purposes and programs (including workload adjustments and maintenance of the level of service) authorized by Chapters 498, 565, and 1302 of the Statutes of 1983, Chapter 97 or 258 of the Statutes of 1984, or Chapter 1 of the Statutes of 1984, 2nd Extraordinary Session.

(h) School districts and other agencies receiving funds distributed

pursuant to this chapter may at their option utilize funds allocated by this chapter to provide additional funds for those purposes and programs prescribed by subdivision (e) for the purpose of enrichment or expansion.

(i) As a condition of receiving any moneys pursuant to subdivision (a) or (b), each district and county superintendent of schools shall establish a separate account for the receipt and expenditure of those moneys, which account shall be clearly identified as a lottery education account.

It is the intent of this chapter that all funds allocated from the California State Lottery Education Fund shall be used exclusively for the education of pupils and students and no funds shall be spent for acquisition of real property, construction of facilities, financing of research, or any other noninstructional purpose.

SEC. 2. Section 8880.21 of the Government Code is amended to read:

8880.21. Quorum; Voting

A quorum shall consist of three members of the Commission. All decisions of the Commission shall be made by a majority vote of the Commission.

SEC. 3. Section 8880.37 of the Government Code is amended to read:

8880.37. Deputy Directors

Upon recommendation of the Director, the Governor shall appoint up to four deputy directors. The Director shall supervise each deputy director's activities. The Commission shall determine the compensation of each deputy director.

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. The Legislature finds and declares that the provisions of this act further the purpose of the California State Lottery Act of 1984.

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 an efficient transition into the use of lottery funds for educational purposes and to further the purpose of the California State Lottery Act of 1984 and the will of the people, it is necessary that this act take effect immediately.

CHAPTER 1518

An act to add Part 5 (commencing with Section 15000) to, and to repeal Sections 15000, 15002, and 15004 of, the Penal Code, relating to peace officers, and making an appropriation therefor.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Part 5 (commencing with Section 15000) is added to the Penal Code, to read:

PART 5. PEACE OFFICERS' MEMORIAL

15000. There is in state government the Peace Officers' Memorial Commission, hereinafter referred to as the commission, composed of nine members. Five of the members shall be appointed by the Governor, two shall be appointed by the Speaker of the Assembly, and two shall be appointed by the Senate Committee on Rules. The members of the commission shall elect a chairperson.

Members of the commission shall receive no compensation, but shall receive per diem and expenses while engaged in commission activities.

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.

15001. (a) The construction of a memorial to California peace officers on the grounds of the State Capitol is hereby authorized. For purposes of this part, 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

(b) Funds for the construction of the memorial shall be provided through private contributions for this purpose.

15002. 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 final 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 Senate Judiciary

Committee biannually on the progress of the memorial.

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.

15003. Peace officer memorial ceremonies, including the dedication of the memorial and any subsequent ceremonies, shall be conducted by the Peace Officers Research Association of California.

15004. (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 part. The commission shall reimburse the amount of the appropriation, plus interest at the same rate of interest as that earned by moneys in the Pooled Money Investment Account during the term of the loan, from the first contributions received by the commission under this part.

(b) The Peace Officers' Memorial Account in the General Fund, hereinafter referred to as the account, is hereby established. All funds received by the commission under Sections 15001 and 15002, and subdivision (a) of this section shall be deposited in the account. Notwithstanding Section 13340 of the Government Code, the moneys in the account are hereby appropriated to the commission for purposes of this part without regard to fiscal years.

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 1519

An act to add Chapter 1.12 (commencing with Section 199.30) to Part 1 of Division 1 of the Health and Safety Code, relating to health.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Chapter 1.12 (commencing with Section 199.30) is added to Part 1 of Division 1 of the Health and Safety Code, to read:

CHAPTER 1.12. ACQUIRED IMMUNE DEFICIENCY SYNDROME RESEARCH CONFIDENTIALITY ACT

199.30. Research records, in a personally identifying form, developed or acquired by any person in the course of conducting research or a research study relating to Acquired Immune Deficiency Syndrome (AIDS) shall be confidential, and these confidential research records shall not be disclosed by any person in possession of the research record, nor shall these confidential research records be discoverable, nor shall any person be compelled

to produce any confidential research record, except as provided by this chapter.

199.31. Confidential research records may be disclosed in accordance with the prior written consent of the research subject with respect to whom the research record is maintained, but only to the extent, under the circumstances, to the persons, and for the purposes the written consent authorizes. Any disclosure authorized by a research subject shall be accompanied by a written statement containing substantially the same language as follows:

"This information has been disclosed to you from a confidential research record the confidentiality of which is protected by state law and any further disclosure of it without specific prior written consent of the person to whom it pertains is prohibited. Violation of these confidentiality guarantees may subject you to civil or criminal liabilities."

199.32. (a) Confidential research records shall be protected in the course of conducting financial audits or program evaluations, and audit personnel shall not directly or indirectly identify any individual research subject in any report of a financial audit or program evaluation. To the extent it is necessary for audit personnel to know the identity of individual research subjects, authorized disclosure of confidential research records shall be made on a case-by-case basis, and every prudent effort shall be exercised to safeguard the confidentiality of these research records in accordance with this chapter. Information disclosed for audit or evaluation purposes should be used only for audit and evaluation purposes and may not be redisclosed or used in any other way.

(b) Nothing in this section imposes liability or criminal sanction for disclosure of confidential research records in accordance with any reporting requirement for a diagnosed case of AIDS by the State Department of Health Services or the Centers for Disease Control under the United States Public Health Services.

199.33. Notwithstanding Section 199.31, whether or not the research subject, with respect to whom any confidential research record is maintained, gives prior written consent, the content of the confidential research record may be disclosed in any of the following situations:

(a) To medical personnel to the extent it is necessary to meet a bona fide medical emergency of a research subject.

(b) To the state department to the extent necessary for the conduct of a special investigation pursuant to Section 211, in which case the confidentiality provisions of Section 211.5 shall apply.

199.34. The content of any confidential research record shall be disclosed to the research subject, the legal representative of the research subject if the research subject is a minor, or the personal representative of a deceased research subject to whom the record pertains, thirty (30) days after written request therefor by the research subject, the legal representative or the personal representative.

199.35. (a) No confidential research record may be compelled to be produced in any state, county, city or other proceeding in order to initiate or substantiate any criminal charge or charges against a research subject, or to conduct an investigation of a research subject, unless a court finds there is reasonable likelihood that the records in question will disclose material information or evidence of substantial value in connection with the criminal charge or charges or investigation, and there is no other practicable way of obtaining the information or evidence.

In addition, no confidential research record shall be disclosed, discoverable, or compelled to be produced in order to initiate or substantiate any criminal charge or charges against a research subject until after a showing of good cause. In assessing good cause, the court shall weigh the public interest and need for disclosure against the injury to the research subject and the harm to the research being undertaken. Upon the granting of an order to produce, the court, in determining the extent to which disclosure of all or any part of a confidential research record is necessary, shall impose appropriate safeguards against unauthorized disclosure, which shall include, but not necessarily be limited to, the individuals or bodies which may have access to the data, the purposes for which the data shall be used, prohibitions on further disclosure and protection of the identities of other research subjects.

(b) No confidential research record may be compelled to be produced in any state, county, city or other civil proceeding, except as expressly provided in this chapter.

199.36. Prior to participation of an individual in a research study relating to AIDS, both of the following requirements shall be met:

(a) The informed consent of each research subject shall be obtained in the method and manner required by Section 46.116, (a) and (b), of Part 46 of Title 45 of the Code of Federal Regulations and be documented in accordance with Section 46.117 of that part.

(b) Each research subject shall be provided with an explanation in writing, in language understandable to the research subject, of the rights and responsibilities of researchers and research subjects under this chapter.

199.37. (a) Any person who willfully or maliciously discloses the content of any confidential research record, to any third party, except pursuant to this chapter, 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.

(b) Any person who maliciously discloses the content of any confidential research record, to a third party, except pursuant to this chapter, which results in economic, bodily, or psychological harm to the research subject, 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.

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

(d) Any person who negligently or willfully violates Section 199.36 is guilty of an infraction punishable by a fine of twenty-five dollars ($25).

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

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

199.38. In the event that the participation of an individual in a research study is disclosed, the information shall not be used to determine the employability or insurability of the research subject.

199.39. Nothing in this chapter shall preclude disclosure of information in order to further research efforts, including, but not limited to, the publication, dissemination, or sharing of raw data, statistics, or case studies, so long as no confidential research records concerning any research subject are disclosed.

199.40. For purposes of this chapter:

(a) "AIDS" means Acquired Immune Deficiency Syndrome.

(b) "Disclosed" means to disclose, release, transfer, disseminate, or otherwise communicate all or any part of any confidential research record orally, in writing, or by electronic means to any person or entity, or to provide the means for obtaining the records.

(c) "Confidential research record or records" means any data in a personally identifying form, including name, social security number, address, employer, or other information that could, directly or indirectly, in part or in sum, lead to the identification of the individual research subject, developed or acquired by any person in the course of conducting research or a research study relating to AIDS

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 1520

An act to add Section 13176 to the Water Code, relating to water quality, and making an appropriation therefor.

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

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

SECTION 1. Section 13176 is added to the Water Code, to read:

13176. (a) The analysis of any material required by this division shall be performed by a laboratory certified by the state board to be competent, properly staffed, and equipped to conduct the specific type of analysis to be performed.

(b) The state board shall adopt regulations setting forth the criteria for certification, the certification process, and the procedures to be used by the laboratories to analyze and identify the materials. The regulations shall include minimum standards for all phases of the laboratory certification quality assurance program. The quality assurance program shall include, but not be limited to, aspects of sample history, recordkeeping, personnel professionalism and training, reference standards, calibration procedures, equipment status, test methods, environment, handling of proprietary information, proficiency testing, and audits. The regulations shall include any additional requirements consistent with the provisions of this division, the state board deems necessary to carry out this division.

(c) The state board shall establish, by regulation, a schedule of fees to be paid by any person requesting laboratory certification. The fee schedule shall be set to cover the estimated reasonable costs of conducting the certification program. The fee shall be deposited in the General Fund. The Legislature shall, commencing with the 1986–87 fiscal year, appropriate the funds necessary for the operation of this program in the Budget Act.

The authority to levy fees pursuant to this subdivision shall expire on January 1, 1989. The state board shall report to the Legislature by April 1, 1988, on the fee schedule adopted pursuant to this subdivision, including the amount of revenue raised by the fees and the cost of the program.

(d) The issuance of a certification shall confirm the types of tests which the laboratory receiving certification is competent and equipped to conduct. Certificates shall expire three years after the date of issuance and shall be subject to renewal, except as specified in this section. The state board may revoke any certificate issued pursuant to this section upon its determination that the laboratory is no longer competent or equipped to conduct the tests. The state board shall maintain an up-to-date information file on all laboratories certified pursuant to this section, and that list shall be made available to individuals required to test water, sediment, or aquatic species pursuant to this division.

(e) At the time of application for certification, a laboratory shall specify, by name and professional qualifications, the personnel directly supervising the analysis. Laboratories shall notify the state

board of any change in that personnel. A change considered significant by the state board shall be cause for reevaluation of the certification and payment of an appropriate fee.

(f) The state board may have all or any part of the certification program administered under contract with other governmental agencies or, subject to Article VII of the California Constitution, with private entities.

SEC. 2. The sum of two hundred thousand dollars ($200,000) is hereby appropriated from the General Fund to the State Water Resources Control Board for the program established in Section 13176 of the Water Code for the 1985–86 fiscal year.

The State Water Resources Contol Board shall, not later than January 1, 1988, reimburse the General Fund for the amount appropriated by this section from fees established by the board and deposited in the General Fund pursuant to subdivision (c) of Section 13176 of the Water Code.

CHAPTER 1521

An act to add Chapter 2 (commencing with Section 16000) to Division 12.5 of the Health and Safety Code, relating to essential services buildings, and making an appropriation therefor.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Chapter 2 (commencing with Section 16000) is added to Division 12.5 of the Health and Safety Code, to read:

CHAPTER 2. ESSENTIAL SERVICES BUILDINGS

Article 1. General Provisions

16000. This chapter shall be known and may be cited as the Essential Services Buildings Seismic Safety Act of 1986.

16001. It is the intent of the Legislature that essential services buildings, which shall be capable of providing essential services to the public after a disaster, shall be designed and constructed to minimize fire hazards and to resist, insofar as practical, the forces generated by earthquakes, gravity, and winds. It is also the intent of the Legislature that the structural systems and details set forth in working drawings and specifications be carefully reviewed by the responsible enforcement agencies using qualified personnel, and that the construction process be carefully and completely inspected. In order to accomplish these purposes, the Legislature intends to provide for the establishment of building standards for earthquake,

gravity, fire, and wind resistance based upon current knowledge, and intends that procedures for the design and construction of essential services buildings be subjected to qualified design review and construction inspection.

It is further the intent of the Legislature that the nonstructural components vital to the operation of essential services buildings shall also be able to resist, insofar as practical, the forces generated by earthquakes, gravity, fire, and winds. The Legislature recognizes that certain nonstructural components housed in essential services buildings, including, but not limited to, communications systems, main transformers and switching equipment, and emergency backup systems, are essential to facility operations and that these nonstructural components should be given adequate consideration during the design and construction process to assure, insofar as practical, continued operation of the building after a disaster.

Article 2. Definitions

16002. Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

16003. "Architect" means a person who is certified under Chapter 3 (commencing with Section 5500) of Division 3 of the Business and Professions Code.

16004. "Civil engineer" means a person who is registered as a civil engineer under Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code.

16005. "Construction or alteration" includes any construction of, addition to, reconstruction of, or alteration to any essential services building.

16006. "Enforcement agency" means the agency of a city, city and county, or county responsible for building safety within its jurisdiction. The office of the State Architect is the enforcement agency for state-owned facilities or facilities leased by the state.

16007. "Essential services building" means any building, including buildings designed and constructed, for public agencies used, or designed to be used, or any building a portion of which is used or designed to be used, as a fire station, police station, emergency operations center, California Highway Patrol office, sheriff's office, or emergency communication dispatch center.

16008. "Structural engineer" means a person who is authorized to use the title structural engineer under Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code.

Article 3. General Requirements and Administration

16009. The appropriate enforcement agency which meets the requirements of Sections 16017 and 16018 shall review the design and inspect the construction of essential services buildings or the reconstruction, alteration, or addition to any essential services

building to the extent it deems necessary to ensure that drawings and specifications comply with the applicable sections of the Model Code, as defined in Section 18916 and specified in Title 24 of the California Administrative Code, and to ensure for the protection of life and property that the work of construction has been performed in accordance with the approved drawings and specifications and this chapter.

16010. Essential services buildings of one-story Type V and Type II N construction that are 2,000 square feet or less in floor area are exempt from the provisions of this chapter.

16011. Unless a contract for the construction or alteration of an essential services building is entered into prior to July 1, 1986, before adopting any drawings or specifications for the essential services building, the governing board, authority, owner, corporation, or other agency proposing to construct any essential services building shall submit the design calculations, drawings, and specifications of the essential services buildings to the appropriate enforcement agency. The enforcement agency shall stamp the drawings and specifications if the construction or alteration is approved by the enforcement agency. Included with the stamp shall be the signature of the qualified person referred to in Section 16018 or Section 16019.

16012. In each case, the application for approval of the drawings and specifications for essential services buildings shall be accompanied by comprehensive and complete drawings, design calculations, and specifications, and required fees, all of which shall comply with the requirements prescribed by the enforcement agency. This review shall not preclude incremental submission and approval of drawings and specifications.

16013. The enforcement agency shall approve or reject all drawings and specifications for the construction or the alteration of all essential services buildings, and in doing so, shall review the design calculations, drawings, and specifications to ensure compliance with the requirements of this chapter. A record shall be kept by the enforcement agency indicating that design calculations, drawings, and specifications have been reviewed and conform with the applicable sections of the Model Code, as defined in Section 18916 and specified in Title 24 of the California Administrative Code.

16014. (a) Except as otherwise provided in subdivision (b), drawings and specifications submitted pursuant to this chapter for construction, reconstruction, remodeling, additions, or alterations which affect structural elements of structures in existence on January 1, 1986, shall be based upon an assessment of the geological conditions of the site and the potential for earthquake damage, relying upon geologic and engineering investigations and studies by personnel who are competent to report on geologic conditions and their potential for causing earthquake damage. One-story Type V and Type II N construction of 4,000 square feet or less shall be exempt from this section, unless the project is within a special studies zone established pursuant to Section 2622 of the Public Resources Code.

(b) The requirements of subdivision (a) may be waived by the enforcement agency if it determines that these requirements for the proposed essential services building project are unnecessary and would not be beneficial to the safety of the public.

16015. All drawings and specifications shall be prepared under the responsible charge of an architect, civil engineer, or structural engineer, who shall sign all drawings and specifications for approval of the enforcement agency. Observation of the work of construction shall be under the general responsible charge of the same architect, civil engineer, or structural engineer when feasible, as determined by the enforcement agency, except that if drawings and specifications do not involve architectural or structural conditions, the drawings and specifications may be prepared and the work of construction may be administered by a registered professional engineer qualified in the branch of engineering that is appropriate to the drawings, specifications, estimates, and work of construction.

16016. Except as provided in Section 16011, on and after July 1, 1986, construction of an essential services building shall not begin unless the drawings and specifications comply with this chapter and the requirements prescribed by the enforcement agency and approval of those drawings and specifications has been obtained from the enforcement agency.

Article 4. Qualifications and Reporting

16017. During construction or alteration of an essential services building, the building owner shall provide for, and the local enforcement agency shall require, competent, adequate, and detailed inspection by a qualified inspector. To be qualified, inspectors shall have an adequate level of expertise and experience in the subject matter for which they have responsibilities for inspection as prescribed by this section. Qualification shall include current certification by the International Conference of Building Officials; or qualifications as an inspector meeting the requirements of subdivision (a) of Section 305 and subdivision (b) of Section 306 of, the 1982 Edition of the Uniform Building Code. Additionally, the architect, civil engineer, or structural engineer responsible for designing the essential services facility is qualified to inspect construction of the facility.

16018. An enforcement agency is qualified to undertake the review of plans, drawings, and specifications for essential services buildings if the enforcement agency has an architect, civil engineer, or structural engineer on its staff or under contract who is responsible for all design review conducted by the enforcement agency and the record prepared under Section 16013.

16019. A jurisdiction whose enforcement agency does not meet the qualifications specified in Sections 16017 and 16018 shall obtain necessary qualified personnel to meet the requirements of this chapter by contracting with other public agencies, private sector

firms, or individuals qualified to perform the necessary services.

16020. Periodically, as the work of construction or alteration progresses and whenever the enforcement agency requires, except as exempt under Section 16010, the architect, civil engineer, or structural engineer in general responsible charge of the work of construction, and the registered engineer shall make a report, duly verified by him or her through periodic review of construction, showing that the work during the period covered by the report has been performed and that the materials used and installed are in accordance with the approved drawings and specifications, setting forth any detailed statements of fact required by the enforcement agency.

"Periodic review of construction," as used in this section and as applied to the architect, civil engineer, or structural engineer and the registered engineer, means the knowledge which is obtained from periodic visits to the project site of reasonable frequency for the purpose of general observation of the work, and also which is obtained from the reporting of others as to the progress of the work, testing of materials, inspection and superintendence of the work that is performed between those periodic visits of the architect, civil engineer, or structural engineer, or the registered engineer. The exercise of reasonable diligence to obtain the facts is required. The term "periodic review of construction" does not include responsibility for superintendence of construction processes, site conditions, operations, equipment, personnel, or the maintenance of a safe place to work or any safety in, on, or about the site of work.

16021. Periodically, as the work of construction or alteration progresses and whenever the enforcement agency requires, except as exempt under Section 16010, the inspector on the work and the contractor shall each make a report, duly verified by him or her, showing in his or her own personal knowledge, that the work during the period covered by the report has been performed and that the materials used and installed are in accordance with the approved drawings and specifications, setting forth any detailed statements of fact required by the enforcement agency.

"Personal knowledge" as applied to the inspector, means the actual personal knowledge which is obtained from his or her personal continuous inspection of the work of construction in all stages of its progress at the site where he or she is responsible for inspection and when work is carried out away from the site, that personal knowledge which is obtained from the reporting of others of the testing or inspection of materials and workmanship for compliance with plans, specifications, or applicable standards. The exercise of reasonable diligence to obtain the facts is required.

"Personal knowledge," as applied to the contractor, means the personal knowledge which is obtained from the construction of the building. The exercise of reasonable diligence to obtain the facts is required.

16022. The State Architect shall do all of the following:

(a) Observe the implementation and administration of this chapter.

(b) Establish and adopt, in consultation with the League of Cities, County Supervisors Association, and California Building Officials, those regulations deemed necessary for carrying out this chapter.

(c) Provide advice and assistance to local jurisdictions regarding essential services buildings.

(d) Hear appeals relative to the administration of this chapter.

The State Architect may establish an advisory committee to assist the State Architect with his or her responsibilities under this chapter. The State Architect shall periodically inform the Seismic Safety Commission and the State Fire Marshal with respect to the implementation and the administration of this chapter.

Article 5. Offenses

16023. Any person who willfully violates this chapter is guilty of a misdemeanor.

SEC. 2. The sum of ninety-five thousand dollars ($95,000) is hereby appropriated from the General Fund to the office of the State Architect to carry out the activities required by Chapter 2 (commencing with Section 16000) of Division 12.5 of the Health and Safety Code.

SEC. 3. 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. 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 1522

An act to amend Sections 14601, 14601.1, and 14601.2 of the Vehicle Code, relating to vehicles.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 14601 of the Vehicle Code is amended to read:

14601. (a) No person shall drive a motor vehicle at any time

when that person's driving privilege is suspended or revoked for reckless driving in violation of Section 23103 or 23104, any reason listed in subdivisions (b) through (f) of Section 12805 requiring the department to refuse to issue a license, negligent or incompetent operation of a motor vehicle as prescribed in subdivision (e) of Section 12809, or negligent operation as prescribed in Section 12810, and when the person so driving has knowledge of the suspension or revocation. Knowledge shall be presumed if notice has been given by the department to the person. The presumption established by this subdivision is a presumption affecting the burden of proof.

(b) Any person convicted under this section shall be punished as follows:

(1) Upon a first conviction, by imprisonment in the county jail for not less than five days nor more than six months and by fine of not more than one thousand dollars ($1,000).

(2) If the offense occurred within five years of a prior offense which resulted in a conviction of a violation of this section or Section 14601.1 or 14601.2, by imprisonment in the county jail for not less than 10 days nor more than one year and by fine of not more than two thousand dollars ($2,000).

(c) If the offense occurred within five years of a prior offense which resulted in a conviction of a violation of this section or Section 14601.1 or 14601.2 and is granted probation, the court shall impose as a condition of probation that the person be confined in the county jail for at least 10 days.

(d) Nothing in this section prohibits a person from driving a motor vehicle, which is owned or utilized by the person's employer, during the course of employment on private property which is owned or utilized by the employer, except an offstreet parking facility as defined in subdivision (c) of Section 12500.

SEC. 2. Section 14601.1 of the Vehicle Code is amended to read:

14601.1. (a) No person shall drive a motor vehicle when his or her driving privilege is suspended or revoked for any reason other than those listed in Section 14601 or 14601.2 and when the person so driving has knowledge of the suspension or revocation. Knowledge shall be presumed if notice has been given by the department to the person. The presumption established by this subdivision is a presumption affecting the burden of proof.

(b) Any person convicted under this section shall be punished as follows:

(1) Upon a first conviction, by imprisonment in the county jail for not more than six months or by a fine of not more than one thousand dollars ($1,000), or by both that fine and imprisonment.

(2) If the offense occurred within five years of a prior offense which resulted in a conviction of a violation of this section or Section 14601 or 14601.2, by imprisonment in the county jail for not less than five days nor more than one year and by a fine of not more than two thousand dollars ($2,000).

(c) Nothing in this section prohibits a person from driving a motor

vehicle, which is owned or utilized by the person's employer, during the course of employment on private property which is owned or utilized by the employer, except an offstreet parking facility as defined in subdivision (c) of Section 12500.

SEC. 3. Section 14601.2 of the Vehicle Code is amended to read:

14601.2. (a) No person shall drive a motor vehicle at any time when that person's driving privilege is suspended or revoked for a conviction of a violation of Section 23152 or 23153, and when the person so driving has knowledge of the suspension or revocation.

(b) Except in full compliance with the restriction, no person shall drive a motor vehicle at any time when that person's driving privilege is restricted pursuant to Article 2 (commencing with Section 23151) of Chapter 12 of Division 11, and when the person so driving has knowledge of the restriction.

(c) Knowledge of suspension or revocation of the driving privilege shall be presumed if notice has been given by the department to the person and knowledge of restriction of the driving privilege shall be presumed if notice has been given by the court to the person. The presumption established by this subdivision is a presumption affecting the burden of proof.

(d) Any person convicted of a violation of this section shall be punished as follows:

(1) Upon a first conviction, by imprisonment in the county jail for not less than 10 days nor more than six months and by a fine of not more than one thousand dollars ($1,000).

(2) If the offense occurred within five years of a prior offense which resulted in a conviction of a violation of this section or Section 14601, by imprisonment in the county jail for not less than 30 days nor more than one year and by a fine of not more than two thousand dollars ($2,000).

(e) If any person is convicted of a first offense under this section and is granted probation, the court shall impose as a condition of probation that the person be confined in the county jail for at least 10 days.

(f) If the offense occurred within five years of a prior offense which resulted in a conviction of a violation of this section or Section 14601 and is granted probation, the court shall impose as a condition of probation that the person be confined in the county jail for at least 30 days.

(g) If any person is convicted of a second or subsequent offense which results in a conviction of this section within seven years, but over five years, of a prior offense which resulted in a conviction of a violation of this section or Section 14601 or 14601.1 and is granted probation, the court shall impose as a condition of probation that the person be confined in the county jail for at least 10 days.

(h) Nothing in this section prohibits a person who is participating in, or has completed, an alcohol or drug rehabilitation program from driving a motor vehicle, which is owned or utilized by the person's employer, during the course of employment on private property

which is owned or utilized by the employer, except an offstreet parking facility as defined in subdivision (c) of Section 12500.

CHAPTER 1523

An act to add and repeal Chapter 3.5 (commencing with Section 66150) to Part 40 of, and to repeal Section 66022 of, the Education Code, relating to postsecondary education, and declaring the urgency thereof, to take effect immediately.

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

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

SECTION 1. Section 66022 of the Education Code is repealed.

SEC. 2. Chapter 3.5 (commencing with Section 66150) is added to Part 40 of the Education Code, to read:

CHAPTER 3.5. STUDENT FEES

66150. The following state policies regarding student fees are hereby established:

(a) To keep fees as low as possible, the state shall bear primary responsibility for the cost of providing postsecondary education.

(b) Students shall be responsible for a portion of the total cost of their education.

(c) Any necessary increases in mandatory systemwide student fees at the California State University, the University of California, or the Hastings College of the Law shall be gradual, moderate, predictable, and equitably borne by all students in each segment

66152. The Trustees of the California State University, the Regents of the University of California, and the Board of Directors of the Hastings College of the Law, after consultation with appropriate student representatives, shall establish long-term policies regarding student fees which meet all of the following requirements:

(a) Are consistent with the state policies established in Section 66150.

(b) Require student fees to be equitable.

(c) Ensure that any necessary fee increases are gradual and moderate.

66154. The Trustees of the California State University, the Regents of the University of California, and the Board of Directors of the Hastings College of the Law shall do all of the following:

(a) Establish policies for the expenditure of student fee revenues which are consistent with the long-term student fees policies established pursuant to Section 66152. The policies shall include, but

not be limited to, a prohibition against the imposition of mandatory systemwide student fees upon resident students for purposes of producing revenues to offset the costs related to instruction, as determined pursuant to segmental policies.

(b) Establish formal consultative processes for the solicitation and consideration of recommendations developed in consultation with appropriate student representatives and submitted by the institution's administration. These consultative processes shall be utilized in the establishment of policies pursuant to subdivision (a) and in any subsequent modification of those policies.

66156. In order to avoid disrupting family and student expectations and ongoing institutional programs, all mandatory systemwide student fees at the California State University, the University of California, and the Hastings College of the Law shall be fixed at least 10 months prior to the fall term in which they become effective.

66158. In determining state appropriations for the California State University, the University of California, or the Hastings College of the Law, the Governor and the Legislature shall consider the level of mandatory systemwide student fees fixed by the governing board of the institution, if all of the following conditions are met:

(a) The governing board of the institution has adopted and applied, or plans to apply, long-term student fee policies which prescribe a specific methodology for determination of mandatory systemwide fees.

(b) The methodology for the determination of mandatory systemwide fees includes all of the following:

(1) The requirement that annual changes in student fees be indexed to a three-year moving average of changes in the amount of state support provided per unit of statewide equivalent full-time enrollment.

(2) The base is either of the following:

(A) All state support budget appropriations, excluding lottery revenues, for the support of the institution, except those for capital outlay, student financial aid, instruction, organized activities, research, public services, or teaching hospitals.

(B) All state support budget appropriations, excluding lottery revenues, for the support of the institution, except those for capital outlay or student financial aid.

(3) Any annual increases or decreases in a fee are limited to 10 percent of the amount of the fee fixed for the prior year, and any excess increase or decrease is carried forward and applied in subsequent years to adjust increases or decreases in the fee to the 10 percent limit.

(c) Funds provided by the Budget Act will be adjusted to reflect the difference between budgeted cost increases for salary and nonsalary expenditures and the revenues resulting from mandatory systemwide student fees determined according to the methodology described by subdivision (b).

66160. In the event that state revenues and expenditures are substantially imbalanced due to factors unforeseen by the Governor and the Legislature, including, but not limited to, initiative measures, natural disasters, or sudden deviations from expected economic trends, mandatory systemwide student fees may be increased or decreased by an amount not to exceed 10 percent of the amount of the fee fixed for the prior year.

66162. Whenever mandatory systemwide student fees are raised in accordance with the state policies established in Section 66150 at the California State University, the University of California, or the Hastings College of the Law, the state shall provide sufficient student financial aid to offset the additional fees charged students determined to have demonstrated financial need pursuant to Section 66021.

66163. The Trustees of the California State University, the Regents of the University of California, and the Board of Directors of the Hastings College of the Law shall not impose mandatory systemwide student fees upon postgraduate students which differ from those charged undergraduate students. This section shall not be construed to obligate the state for any costs associated with the elimination of any differential fees existing in the 1984–85 academic year.

66164. No provision of this chapter shall be applicable to the Regents of the University of California or to the Board of Directors of the Hastings College of the Law unless the regents or the board of directors, as appropriate, adopt a resolution to make those provisions applicable. No provision of this chapter shall be applicable to the California community colleges.

66165. This chapter shall remain in effect for the 1986–87, 1987–88, 1988–89, and 1989–90 school years, and as of August 31, 1990, is repealed.

SEC. 3. As a part of the annual state and segmental budgetary processes, and at any other times requested by the Governor or the Legislature, the Trustees of the California State University, and, if they so elect, the Board of Directors of the Hastings College of the Law, and the Regents of the University of California, and appropriate state executive and legislative fiscal agencies shall report on the state long-term student fee policy and the procedures and methodologies implementing that policy.

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 implement the state requirement regarding student fees established by Section 66156 of the Education Code, as added by Section 2 of this act, prior to the commencement of the 1986–87 academic year, it is necessary that this act take effect immediately.

CHAPTER 1524

An act to amend Section 5019 of the Education Code, relating to school districts.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 5019 of the Education Code is amended to read:

5019. Except in a school district governed by a board of education provided for in the charter of a city or city and county, in any school district or community college district the county committee on school district organization shall have the power to establish trustee areas, rearrange the boundaries of trustee areas, abolish trustee areas, and increase to seven or decrease to five the number of members of the governing board, or to adopt one of the alternative methods of electing governing board members specified in Section 5030.

Any such proposal may be initiated by the county committee or made to the county committee either by a petition signed by 5 percent or 50, whichever is less, of the qualified registered voters residing in a district in which there are 2,500 or fewer qualified registered voters, or by a petition signed by 2 percent, or 250, whichever is less, of the qualified registered voters residing in a district in which there are 2,501 or more qualified registered voters or by resolution of the governing board of the district. For this purpose, the number of qualified registered voters in the district shall be determined pursuant to the most recent report submitted by the county clerk to the Secretary of State under Section 610 or 6460 of the Elections Code.

When any such proposal is made, the county committee shall call and conduct at least one hearing in the district on the matter. At the conclusion of the hearing, the county committee shall approve or disapprove the proposal.

If the county committee approves the rearrangement of the boundaries of trustee areas for a particular district, the rearrangement of the trustee areas shall be effectuated for the next district election occurring at least 120 days after its approval, unless at least 5 percent of the registered voters of the district sign a petition requesting an election on the proposed rearrangement of trustee area boundaries. Such a petition for an election shall be submitted to the elections official within 60 days of the proposal's adoption by the county committee.

CHAPTER 1525

An act to amend Section 17538.5 of the Business and Professions Code, relating to consumer goods and services.

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

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

SECTION 1. Section 17538.5 of the Business and Professions Code is amended to read:

17538.5. It is unlawful in the sale or offering for sale of consumer goods or services for any person conducting, any business in this state which utilizes a post office box address or a street address representing a site used for the receipt or delivery of mail or as a telephone answering service, to fail to disclose the legal name under which business is done and the complete street address from which business is actually conducted in all advertising and promotional materials, including order blanks and forms. Any violation of the provisions of this section is a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two thousand five hundred dollars ($2,500), or by both.

This section does not apply to a person who sells the preponderance of goods and services at retail from trade premises which are open to the public regularly during normal business hours where the post office box or telephone answering service is supportive of and ancillary to the sales made or to any person who provides services pursuant to a license issued pursuant to this code or any other provision of law by a state board or agency or, except for a person conducting a mail order or catalog business, by a city or county or city and county in this state, which has the person's current business street address or home address on record and which is authorized to reveal that address to inquiring persons.

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 1526

An act to amend Sections 53601, 53635, and 53646 of the Government Code, relating to funds of local agencies.

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

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

SECTION 1. Section 53601 of the Government Code, as amended by Chapter 741 of the Statutes of 1984, is amended to read:

53601. The legislative body of a local agency having money in a sinking fund of, or surplus money in, its treasury not required for the immediate necessities of the local agency may invest such portion of the money as it deems wise or expedient in:

(a) Bonds issued by it, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by it or by a department, board, agency, or authority thereof.

(b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority thereof.

(d) Bonds, notes, warrants, or other evidences of indebtedness of any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority thereof.

(e) Obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the Federal Home Loan Bank Board, the Tennessee Valley Authority, or in obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association; or in guaranteed portions of Small Business Administration notes; or in obligations, participations, or other instruments of or issued by a federal agency or a United States government-sponsored enterprise.

(f) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances, which are eligible for purchase by the Federal Reserve System. Purchases of bankers acceptances may not exceed 270 days maturity or 40 percent of the agency's surplus money which may be invested pursuant to this section. However, no more than 30 percent of the agency's surplus funds may be invested in the bankers acceptances of any one commercial bank pursuant to this section.

The provisions of this subdivision shall not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act.

(g) Commercial paper of "prime" quality of the highest ranking or of the highest letter and numerical rating as provided for by

Moody's Investors Service, Inc., or Standard and Poor's Corporation. Eligible paper is further limited to issuing corporations that are organized and operating within the United States and having total assets in excess of five hundred million dollars ($500,000,000) and having an "A" or higher rating for the issuer's debt, other than commercial paper, if any, as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Purchases of eligible commercial paper may not exceed 180 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. Purchases of commercial paper may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section. An additional 15 percent, or a total of 30 percent of the agency's surplus money, may be invested pursuant to this subdivision. The additional 15 percent may be so invested only if the dollar-weighted average maturity of the entire amount does not exceed 31 days. "Dollar-weighted average maturity" means the sum of the amount of each outstanding commercial paper investment multiplied by the number of days to maturity, divided by the total amount of outstanding commercial paper.

(h) Negotiable certificates of deposits issued by a nationally or state-chartered bank or a state or federal association (as defined by Section 5102 of the Financial Code) or by a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit may not exceed 30 percent of the agency's surplus money which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposits do not come within the provisions of Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5, except that the amount so invested shall be subject to the limitations of Section 53638.

(i) Investments in repurchase agreements or reverse repurchase agreements of any securities authorized by this section, so long as the proceeds of the reverse repurchase agreement are invested solely to supplement the income normally received from these securities. Investment in a reverse repurchase agreement shall be made only upon prior approval of the legislative body of the local agency. For purposes of this section, the term "repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the seller will repurchase such securities on or before a specified date, and for a specified amount and will deliver the underlying securities to the local agency by book entry, physical delivery, or a third-party custodial agreement. The term of repurchase agreements shall be for one year or less. Such securities, for purpose of repurchase under this subdivision, shall mean securities of the same issuer, description, issue date, and maturity. The term "reverse repurchase agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase such securities on or before a specified date and for a specified amount.

(j) Mortgage securities purchased under an agreement to resell

pursuant to subdivision (i), provided that the mortgage securities are eligible investments under subdivision (a) or (b) of Section 13000 of the Financial Code. A local agency's investment in a mortgage security shall not exceed 95 percent of the mortgage securities' fair market value and shall not exceed 25 percent of the agency's surplus money which may be invested pursuant to this section.

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 53601 of the Government Code, as amended by Section 1.5 of Chapter 567 of the Statutes of 1983, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 1.5. Section 53601 of the Government Code, as amended by Section 1.5 of Chapter 567 of the Statutes of 1983, is amended to read:

53601. The legislative body of a local agency having money in a sinking fund of, or surplus money in, its treasury not required for the immediate necessities of the local agency may invest such portion of the money as it deems wise or expedient in:

(a) Bonds issued by it, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by it or by a department, board, agency, or authority thereof.

(b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority thereof.

(d) Bonds, notes, warrants, or other evidences of indebtedness of any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority thereof.

(e) Obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the Federal Home Loan Bank Board, the Tennessee Valley Authority, or in obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association; or in guaranteed portions of Small Business Administration notes; or in obligations, participations, or other instruments of or issued by a federal agency or a United States government-sponsored enterprise.

(f) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances, which are eligible for purchase by the Federal Reserve System. Purchases of bankers acceptances may not exceed 270 days maturity or 40

percent of the agency's surplus money which may be invested pursuant to this section. However, no more than 30 percent of the agency's surplus funds may be invested in the bankers acceptances of any one commercial bank pursuant to this section.

The provisions of this subdivision shall not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act.

(g) Commercial paper of "prime" quality of the highest ranking or of the highest letter and numerical rating as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Eligible paper is further limited to issuing corporations that are organized and operating within the United States and having total assets in excess of five hundred million dollars ($500,000,000) and having an "A" or higher rating for the issuer's debt, other than commercial paper, if any, as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Purchases of eligible commercial paper may not exceed 180 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. Purchases of commercial paper may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section. An additional 15 percent, or a total of 30 percent of the agency's surplus money, may be invested pursuant to this subdivision. The additional 15 percent may be so invested only if the dollar-weighted average maturity of the entire amount does not exceed 31 days. "Dollar-weighted average maturity" means the sum of the amount of each outstanding commercial paper investment multiplied by the number of days to maturity, divided by the total amount of outstanding commercial paper.

(h) Negotiable certificates of deposits issued by a nationally or state-chartered bank or a state or federal association (as defined by Section 5102 of the Financial Code) or by a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit may not exceed 30 percent of the agency's surplus money which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposits do not come within the provisions of Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5, except that the amount so invested shall be subject to the limitations of Section 53638.

(i) Investments in repurchase agreements or reverse repurchase agreements of any securities authorized by this section, so long as the proceeds of the reverse repurchase agreement are invested solely to supplement the income normally received from these securities. Investment in a reverse repurchase agreement shall be made only upon prior approval of the legislative body of the local agency. For purposes of this section, the term "repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the seller will repurchase such securities on or before a specified date and for a specified amount and will deliver the underlying securities to the local agency by book entry, physical

delivery, or by third-party custodial agreement. The term of repurchase agreements shall be for one year or less. Such securities, for purpose of repurchase under this subdivision, shall mean securities of the same issuer, description, issue date, and maturity.

The term "reverse repurchase agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase such securities on or before a specified date and for a specified amount.

SEC. 2. Section 53635 of the Government Code, as amended by Chapter 741 of the Statutes of 1984, is amended to read:

53635. As far as possible, all money belonging to, or in the custody of, a local agency, including money paid to the treasurer or other official to pay the principal, interest, or penalties of bonds, shall be deposited for safekeeping in state or national banks or state or federal associations in the state selected by the treasurer or other official having the legal custody of the money; or, unless otherwise directed by the legislative body pursuant to Section 53601, may be invested in the following:

(a) Bonds issued by it, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by it or by a department, board, agency, or authority thereof.

(b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority thereof.

(d) Bonds, notes, warrants, or other evidences of indebtedness of any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority thereof.

(e) Obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the federal home loan bank, the Tennessee Valley Authority, or in obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association; or in guaranteed portions of Small Business Administration notes; or in obligations, participations, or other instruments of or issued by a federal agency or a United States government-sponsored enterprise.

(f) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances, which are eligible for purchase by the Federal Reserve System. Purchases of bankers acceptances may not exceed 270 days maturity or 40 percent of the agency's surplus funds which may be invested pursuant to this section. However, no more than 30 percent of the

agency's surplus funds may be invested in the bankers acceptances of any one commercial bank pursuant to this section.

The provisions of this subdivision shall not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act.

(g) Commercial paper of "prime" quality of the highest ranking or of the highest letter and numerical rating as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Eligible paper is further limited to issuing corporations that are organized and operating within the United States and having total assets in excess of five hundred million dollars ($500,000,000) and having an "A" or higher rating for the issuer's debt, other than commercial paper, if any, as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Purchases of eligible commercial paper may not exceed 180 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. Purchases of commercial paper may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section. An additional 15 percent, or a total of 30 percent of the agency's money or money in its custody, may be invested pursuant to this subdivision. The additional 15 percent may be so invested only if the dollar-weighted average maturity of the entire amount does not exceed 31 days. "Dollar-weighted average maturity" means the sum of the amount of each outstanding commercial paper investment multiplied by the number of days to maturity, divided by the total amount of outstanding commercial paper.

(h) Negotiable certificates of deposits issued by a nationally or state-chartered bank or a state or federal association or by a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit may not exceed 30 percent of the agency's surplus money which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposits do not come within the provisions of Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5, except that the amount so invested shall be subject to the limitations of Section 53638.

(i) Investments in repurchase agreements or reverse repurchase agreements of any securities authorized by this section, so long as the proceeds of the reverse repurchase agreement are invested solely to supplement the income normally received from these securities. Investment in a reverse repurchase agreement shall be made only upon prior approval of the legislative body of the local agency. For purposes of this section, the term "repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the seller will repurchase such securities on or before a specified date, and for a specified amount and will deliver the underlying securities to the local agency by book entry, physical delivery, or a third-party custodial agreement. The term of

repurchase agreements shall be for one year or less. Such securities, for purpose of repurchase under this subdivision, shall mean securities of the same issuer, description, issue date, and maturity. The term "reverse repurchase agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase such securities on or before a specified date and for a specified amount.

(j) Mortgage securities purchased under an agreement to resell pursuant to subdivision (i), provided that the mortgage securities are eligible investments under subdivision (a) or (b) of Section 13000 of the Financial Code. A local agency's investment in a mortgage security shall not exceed 95 percent of the mortgage securities' fair market value and shall not exceed 25 percent of the agency's surplus money which may be invested pursuant to this section.

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 53635 of the Government Code, as amended by Section 2.5 of Chapter 567 of the Statutes of 1983, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 2.5. Section 53635 of the Government Code, as amended by Section 2.5 of Chapter 567 of the Statutes of 1983, is amended to read:

53635. As far as possible, all money belonging to, or in the custody of, a local agency, including money paid to the treasurer or other official to pay the principal, interest, or penalties of bonds, shall be deposited for safekeeping in state or national banks or state or federal savings and loan associations in the state selected by the treasurer or other official having the legal custody of the money, or, unless otherwise directed by the legislative body pursuant to Section 53601, may be invested in the following:

(a) Bonds issued by it, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by it or by a department, board, agency, or authority thereof.

(b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority thereof.

(d) Bonds, notes, warrants, or other evidences of indebtedness of any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority thereof.

(e) Obligations issued by banks for cooperatives, federal land

banks, federal intermediate credit banks, federal home loan banks, the federal home loan bank, the Tennessee Valley Authority, or in obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association; or in guaranteed portions of Small Business Administration notes; or in obligations, participations, or other instruments of or issued by a federal agency or a United States government-sponsored enterprise.

(f) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances, which are eligible for purchase by the Federal Reserve System. Purchases of bankers acceptances may not exceed 270 days maturity or 40 percent of the agency's surplus funds which may be invested pursuant to this section. However, no more than 30 percent of the agency's surplus funds may be invested in the bankers acceptances of any one commercial bank pursuant to this section.

The provisions of this subdivision shall not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act.

(g) Commercial paper of "prime" quality of the highest ranking or of the highest letter and numerical rating as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Eligible paper is further limited to issuing corporations that are organized and operating within the United States and having total assets in excess of five hundred million dollars ($500,000,000) and having an "A" or higher rating for the issuer's debt, other than commercial paper, if any, as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Purchases of eligible commercial paper may not exceed 180 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. Purchases of commercial paper may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section. An additional 15 percent, or a total of 30 percent of the agency's money or money in its custody, may be invested pursuant to this subdivision. The additional 15 percent may be so invested only if the dollar-weighted average maturity of the entire amount does not exceed 31 days. "Dollar-weighted average maturity" means the sum of the amount of each outstanding commercial paper investment multiplied by the number of days to maturity, divided by the total amount of outstanding commercial paper.

(h) Negotiable certificates of deposits issued by a nationally or state-chartered bank or a state or federal association or by a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit may not exceed 30 percent of the agency's surplus money which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposits do not come within the provisions of Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5, except that the

amount so invested shall be subject to the limitations of Section 53638.

(i) Investments in repurchase agreements or reverse repurchase agreements of any securities authorized by this section, so long as the proceeds of the reverse repurchase agreement are invested solely to supplement the income normally received from these securities. Investment in a reverse repurchase agreement shall be made only upon prior approval of the legislative body of the local agency. For purposes of this section, the term "repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the seller will repurchase such securities on or before a specified date and for a specified amount and will deliver the underlying securities to the local agency by book entry, physical delivery, or by third-party custodial agreement. The term of repurchase agreements shall be for one year or less. Such securities, for purpose of repurchase under this subdivision, shall mean securities of the same issuer, description, issue date, and maturity.

The term "reverse repurchase agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase such securities on or before a specified date and for a specified amount.

SEC. 3. Section 53646 of the Government Code is amended to read:

53646. (a) The treasurer or chief fiscal officer shall annually render to the legislative body of the local agency a statement of investment policy.

(b) The treasurer or chief fiscal officer shall render a monthly report to the chief executive officer and legislative body of the local agency showing the type of investment, institution, date of maturity, amount of deposit, current market value for all securities with a maturity of more than 12 months, rate of interest, and such data as may be required by the local agency. The monthly report shall specify in detail investments made pursuant to subdivision (i) of Section 53601, Section 53601.1, and subdivision (i) of Section 53635.

(1) The monthly report shall state its relationship to the statement of investment policy.

(2) In the monthly report, a subsidiary ledger of investments may be used in accordance with accepted accounting practices.

(3) The monthly report shall also include any information which the treasurer or chief fiscal officer determines would demonstrate that the local agency's expenditure requirements can be met in the following month.

(4) A school district is not required to render a monthly report on any of its funds in the custody of the county treasurer.

(c) 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 of the Government Code, Section 53646 of

the Government Code, as amended by Section 8 of Chapter 105 of the Statutes of 1983, shall have the same force and effect as if this temporary provision had not been enacted.

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.

CHAPTER 1527

An act to amend Sections 13960 and 13965 of the Government Code, relating to victims of crimes.

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

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

SECTION 1. Section 13960 of the Government Code is amended to read:

13960. As used in this article:

(a) "Victim" shall mean any of the following residents of the State of California, or military personnel and their families stationed in California:

(1) A person who sustains injury or death as a direct result of a crime.

(2) Anyone legally dependent for support upon a person who sustains injury or death as a direct result of a crime.

(3) Any member of the family of a victim specified by paragraph (1) or any person in close relationship to such a victim, if that member or person was present during the actual commission of the crime, or any member or person herein described whose treatment or presence during treatment of the victim is medically required for the successful treatment of the victim.

(4) In the event of a death caused by a crime, any individual who legally assumes the obligation, or who voluntarily pays the medical or burial expenses incurred as a direct result thereof.

(b) "Injury" shall include physical or emotional injury, or both. However, this article shall not be construed to apply to emotional injury unless such an injury is incurred by a person who also sustains physical injury or threat of physical injury or by a member or person as defined in paragraph (3) of subdivision (a). For purposes of this article, a victim of a crime committed in violation of Section 261, 270, 270a, 270c, 271, 272, 273a, 273b, 273d, 285, 286, 288, 288.1, 288a, or 289 of the Penal Code, who sustains emotional injury shall be presumed

to have sustained physical injury.

(c) "Crime" shall mean a crime or public offense as defined in Section 15 of the Penal Code which results in injury to a resident of this state, including such a crime or public offense, wherever it may take place, when the resident is temporarily absent from the state. No act involving the operation of a motor vehicle, aircraft, or water vehicle which results in injury or death shall constitute a crime for the purposes of this article, except that a crime shall include any of the following:

(1) Injury or death intentionally inflicted through the use of a motor vehicle, aircraft, or water vehicle.

(2) Injury or death caused by a driver in violation of Section 20001, 23152, or 23153 of the Vehicle Code.

(3) Injury or death caused by a driver of a motor vehicle in the immediate act of fleeing the scene of a crime in which he knowingly and willingly participated.

(d) "Pecuniary loss" shall mean any expenses for which the victim has not and will not be reimbursed from any other source. Losses shall include all of the following:

(1) The amount of medical or medical related expense, including psychological or psychiatric expenses, and including, but not limited to, eyeglasses, hearing aids, dentures, or any prosthetic device taken, lost, or destroyed during the commission of the crime, or the use of which became necessary as a direct result of the crime.

(2) The amount of mental health counseling related expenses which became necessary as a direct result of the crime. These counseling services may be provided by a person licensed as a clinical social worker or a person licensed as a marriage, family, and child counselor practicing within the scope of licensure, or within the scope of his or her respective practice acts.

(3) The loss of income or support that the victim has incurred or will incur as a direct result of an injury or death in an amount of more than one hundred dollars ($100) or equal to 20 percent or more of the victims' net monthly income, whichever is less, except that in the case of persons on fixed incomes from retirement or disability who apply for assistance under this article, there shall be no minimum loss requirement.

(4) Pecuniary loss also includes nonmedical remedial care and treatment rendered in accordance with a religious method of healing recognized by state law.

(e) "Board" shall mean the State Board of Control.

(f) "Victim centers" shall mean those centers as specified in Section 13835.2 of the Penal Code.

SEC. 1.5. Section 13960 of the Government Code is amended to read:

13960. As used in this article:

(a) "Victim" shall mean any of the following residents of the State of California, or military personnel and their families stationed in California:

(1) A person who sustains injury or death as a direct result of a crime.

(2) Anyone legally dependent for support upon a person who sustains injury or death as a direct result of a crime.

(3) Any member of the family of a victim specified by paragraph (1) or any person in close relationship to such a victim, if that member or person was present during the actual commission of the crime, or any member or person herein described whose treatment or presence during treatment of the victim is medically required for the successful treatment of the victim.

(4) Any member of the family of a person who sustains injury or death as a direct result of a crime when that family member has incurred emotional injury as a result of the crime. Pecuniary loss to these victims shall be limited to only medical expenses or mental health counseling expenses or both, of which the maximum award shall not exceed ten thousand dollars ($10,000).

(5) In the event of a death caused by a crime, any individual who legally assumes the obligation, or who voluntarily pays the medical or burial expenses incurred as a direct result thereof.

(b) "Injury" shall include physical or emotional injury, or both. However, this article shall not be construed to apply to emotional injury unless such an injury is incurred by a person who also sustains physical injury or threat of physical injury or by a member or person as defined in paragraph (3) or (4) of subdivision (a). For purposes of this article, a victim of a crime committed in violation of Section 261, 270, 270a, 270c, 271, 272, 273a, 273b, 273d, 285, 286, 288, 288.1, 288a, or 289 of the Penal Code, who sustains emotional injury shall be presumed to have sustained physical injury.

(c) "Crime" shall mean a crime or public offense as defined in Section 15 of the Penal Code which results in injury to a resident of this state, including such a crime or public offense, wherever it may take place, when the resident is temporarily absent from the state. No act involving the operation of a motor vehicle, aircraft, or water vehicle which results in injury or death shall constitute a crime for the purposes of this article, except that a crime shall include any of the following:

(1) Injury or death intentionally inflicted through the use of a motor vehicle, aircraft, or water vehicle.

(2) Injury or death caused by a driver in violation of Section 20001, 23152, or 23153 of the Vehicle Code.

(3) Injury or death caused by a driver of a motor vehicle in the immediate act of fleeing the scene of a crime in which he or she knowingly and willingly participated.

(d) "Pecuniary loss" shall mean any expenses for which the victim has not and will not be reimbursed from any other source. Losses shall include all of the following:

(1) The amount of medical or medical-related expense, including psychological or psychiatric expenses, and including, but not limited to, eyeglasses, hearing aids, dentures, or any prosthetic device taken,

lost, or destroyed during the commission of the crime, or the use of which became necessary as a direct result of the crime.

(2) The amount of mental health counseling related expenses which became necessary as a direct result of the crime. These counseling services may be provided by a person licensed as a clinical social worker or a person licensed as a marriage, family, or child counselor practicing within the scope of licensure, or within the scope of his or her respective practice acts.

(3) The loss of income or support that the victim has incurred or will incur as a direct result of an injury or death in an amount of more than one hundred dollars ($100) or equal to 20 percent or more of the victims' net monthly income, whichever is less, except that in the case of persons on fixed incomes from retirement or disability who apply for assistance under this article, there shall be no minimum loss requirement.

(4) Pecuniary loss also includes nonmedical remedial care and treatment rendered in accordance with a religious method of healing recognized by state law.

(e) "Board" shall mean the State Board of Control.

(f) "Victim centers" shall mean those centers as specified in Section 13835.2 of the Penal Code.

This section shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1990, deletes or extends that date.

SEC. 1.6. Section 13960 is added to the Government Code, to read:

13960. As used in this article:

(a) "Victim" shall mean any of the following residents of the State of California, or military personnel and their families stationed in California:

(1) A person who sustains injury or death as a direct result of a crime.

(2) Anyone legally dependent for support upon a person who sustains injury or death as a direct result of a crime.

(3) Any member of the family of a victim specified by paragraph (1) or any person in close relationship to such a victim, if that member or person was present during the actual commission of the crime, or any member or person herein described whose treatment or presence during treatment of the victim is medically required for the successful treatment of the victim.

(4) In the event of a death caused by a crime, any individual who legally assumes the obligation, or who voluntarily pays the medical or burial expenses incurred as a direct result thereof.

(b) "Injury" shall include physical or emotional injury, or both. However, this article shall not be construed to apply to emotional injury unless such an injury is incurred by a person who also sustains physical injury or threat of physical injury or by a member or person as defined in paragraph (3) of subdivision (a). For purposes of this article, a victim of a crime committed in violation of Section 261, 270,

270a, 270c, 271, 272, 273a, 273b, 273d, 285, 286, 288, 288.1, 288a, or 289 of the Penal Code, who sustains emotional injury shall be presumed to have sustained physical injury.

(c) "Crime" shall mean a crime or public offense as defined in Section 15 of the Penal Code which results in injury to a resident of this state, including such a crime or public offense, wherever it may take place, when the resident is temporarily absent from the state. No act involving the operation of a motor vehicle, aircraft, or water vehicle which results in injury or death shall constitute a crime for the purposes of this article, except that a crime shall include any of the following:

(1) Injury or death intentionally inflicted through the use of a motor vehicle, aircraft, or water vehicle.

(2) Injury or death caused by a driver in violation of Section 20001, 23152, or 23153 of the Vehicle Code.

(3) Injury or death caused by a driver of a motor vehicle in the immediate act of fleeing the scene of a crime in which he or she knowingly and willingly participated.

(d) "Pecuniary loss" shall mean any expenses for which the victim has not and will not be reimbursed from any other source. Losses shall include all of the following:

(1) The amount of medical or medical-related expense, including psychological or psychiatric expenses, and including, but not limited to, eyeglasses, hearing aids, dentures, or any prosthetic device taken, lost, or destroyed during the commission of the crime, or the use of which became necessary as a direct result of the crime.

(2) The amount of mental health counseling related expenses which became necessary as a direct result of the crime. These counseling services may be provided by a person licensed as a clinical social worker or a person licensed as a marriage, family, and child counselor practicing within the scope of licensure, or within the scope of his or her respective practice acts.

(3) The loss of income or support that the victim has incurred or will incur as a direct result of an injury or death in an amount of more than one hundred dollars ($100) or equal to 20 percent or more of the victims' net monthly income, whichever is less, except that in the case of persons on fixed incomes from retirement or disability who apply for assistance under this article, there shall be no minimum loss requirement.

(4) Pecuniary loss also includes nonmedical remedial care and treatment rendered in accordance with a religious method of healing recognized by state law.

(e) "Board" shall mean the State Board of Control.

(f) "Victim centers" shall mean those centers as specified in Section 13835.2 of the Penal Code.

This section shall become operative on January 1, 1990.

SEC. 2. 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 direct cash payment to a provider of psychological or psychiatric treatment or mental health counseling services, or to the victim, equal to the pecuniary loss attributable to medical or medical-related expenses directly resulting from the injury, provided that the board may not authorize without good cause a direct cash payment to a licensed health care provider over the objection of the victim.

(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) Obtain an independent examination and report from any provider of psychological or psychiatric treatment or mental health counseling services, if it believes there is a reasonable basis for requesting an additional evaluation.

(5) 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 3. Sections 1.5 and 1.6 of this bill incorporate amendments to Section 13960 of the Government Code proposed by both this bill and AB 695. They shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill affects Section 13960 of the Government Code, and (3) this bill is enacted after AB 695, in which case Section 1 of this bill shall not become operative.

CHAPTER 1528

An act to add Section 1596.889 to the Health and Safety Code, and to amend Sections 11165 and 11174 of the Penal Code, relating to child abuse.

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

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

SECTION 1. Section 1596.889 is added to the Health and Safety Code, to read:

1596.889. In all proceedings conducted in accordance with Section 1596.887, the preponderance of the evidence standard shall apply.

SEC. 2. 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 of this code: 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 corporal punishment or injury, 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 licensee, administrator, or employee of a licensed community care or child day care facility, or the administrator or an employee of a public or private 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; 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.

(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. 2.5. 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 of this code: 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 corporal punishment or injury, 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 licensee, administrator, or employee of a licensed community care or child day care facility, or the administrator or an employee of a public or private 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 presentation 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. 3. Section 11174 of the Penal Code is amended to read:

11174. The Department of Justice, in cooperation with the State Department of Social Services, shall prescribe by regulation

guidelines for the investigation of abuse in out-of-home care, as defined in subdivision (f) of Section 11165, and shall ensure that the investigation is conducted in accordance with the regulations and guidelines.

SEC. 3.5. Section 2.5 of this bill incorporates amendments to Section 11165 of the Penal Code proposed by both this bill and AB 701. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 11165 of the Penal Code, and (3) this bill is enacted after AB 701, in which case Section 2 of this bill shall not become operative.

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. 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. No appropriation is made by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act does not mandate a new program or higher level of service on school districts or local government. It is recognized, however, that school districts or local governments may make claims for reimbursement under Chapter 4 (commencing with Section 17550) of Part 7 of Division 4 of Title 2 of the Government Code.

CHAPTER 1529

An act relating to juvenile arson and firesetting, and making an appropriation therefor.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. (a) There is in state government an advisory group entitled "The Task Force on Juvenile Arson and Firesetting," composed of members appointed as specified in subdivision (b).

(b) The State Fire Marshal or his or her representative shall be the chair of the task force. The Senate Committee on Rules shall appoint one person to represent the National Firehawk Foundation and one person to represent the California Conference of Arson Investigators. The Speaker of the Assembly shall appoint one person to represent psychologists and one person to represent parents of juvenile firesetters. In addition to these appointments, the Senate

Committee on Rules shall appoint one member of the Senate to serve on the task force and the Speaker of the Assembly shall appoint one member of the Assembly to serve on the task force.

The Governor shall appoint one person to represent each of the following groups: local fire departments, local law enforcement agencies, local probation departments, public defenders, and elementary school educators.

In addition to the above members, a representative of the following state agencies, designated by the agency represented, shall serve on the task force: the Department of Forestry; the Attorney General; the Office of Criminal Justice Planning; the Office of Child Abuse Prevention of the State Department of Social Services; and the State Department of Mental Health. These agencies shall utilize existing staff and resources in carrying out the purposes of this act.

In addition to the above members of the task force, the State Fire Marshal shall invite representation from the United States Office of Juvenile Justice and Delinquency Prevention and the insurance industry.

(c) The task force shall do all of the following:

(1) Study the extent, impact, and treatment of juvenile arsonists and firesetters in California.

(2) Determine if the California Fire Incident Reporting System (CFIRS) and National Fire Incident Reporting System (NFIRS) should be expanded to include collection, analysis, and dissemination of data on juvenile firesetting and arson.

(3) Determine if cases of child firesetting and arson are now mislabeled or go unreported.

(4) Determine if the collection, analysis, and dissemination of data regarding juvenile firesetting and arson should also be instituted among related jurisdictions, such as the juvenile justice system, school system, mental health facilities, and the insurance industry.

(5) Determine if legal procedures such as arrest, sentencing, probation conditions, confidentiality, and custodial procedures should be studied and revised in order to rehabilitate child arsonists and firesetters and to protect communities.

(6) Identify and analyze existing federal and state laws which may have an impact on, or relate to, juvenile arson and firesetting.

(7) Research the effectiveness of existing intervention programs and the determinants of firesetting in order to determine if improved treatment and intervention programs should be developed.

(8) Determine if model programs, materials, and improved community training and education should be developed and disseminated in order to assist state and local efforts in this area.

(d) The task force may meet monthly, but for not more than two consecutive days.

(e) The task force shall submit a progress report to the Legislature on their initial findings on the subjects required by this act within nine months of the date of their first meeting. The task force shall

submit a final report to the Legislature on the subjects required by this act no later than one year from their initial meeting and in any event no later than May 1, 1987.

(f) Members of the task force other than those representing the Assembly, Senate, or state agencies, shall be reimbursed for their actual and necessary travel expenses incurred in connection with their duties under this act.

SEC. 2. The sum of twenty-five thousand dollars ($25,000) is hereby appropriated from the General Fund to the Office of the State Fire Marshal for the purposes specified in subdivision (f) of this act and for the costs associated with printing the reports required by this act.

CHAPTER 1530

An act to add and repeal Article 4.5 (commencing with Section 54685) of Chapter 9 of Part 29 of the Education Code, relating to schools, and making an appropriation therefor.

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

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

SECTION 1. Article 4.5 (commencing with Section 54685) is added to Chapter 9 of Part 29 of the Education Code, to read:

Article 4.5. The Early Intervention for School Success Program

54685. The Legislature finds and declares that many public school pupils enrolled in prekindergarten, kindergarten, and grade one have developmental deficiencies.

The Legislature also finds and declares that there is a need to do all of the following:

(1) To establish a system to identify pupils of the ages of four to seven years, inclusive, with developmental deficiencies.

(2) To implement appropriate instructional programs to reduce the frequency and severity of learning disabilities for these pupils in later years.

(3) To reduce the likelihood that these pupils eventually will need to be placed in remedial programs with higher costs.

The Legislature further finds and declares that the Early Prevention of School Failure Program, validated by the federal Joint Dissemination Review Panel as a proven educational practice, is a model capable of providing a comprehensive range of materials and services to identify and remediate developmental deficiencies in pupils of the ages of four to seven years, inclusive.

The Legislature recognizes that the Special Education Resource

Network, which is currently administered by the State Department of Education, provides training and technical assistance to parents, teachers and school personnel, and other professionals in the appropriate assessment and education for students with special needs. It is the intent of the Legislature that the program established pursuant to this article shall compliment and not duplicate the programs provided by the Special Education Resource Network.

54685.1. It is the intent of the Legislature to do all of the following:

(1) To establish the Early Intervention for School Success Program which is an adaptation of the Early Prevention for School Failure Program.

(2) To implement the program at 200 public school sites within the state by June 1991.

(3) To enable school personnel, organized in child study teams, to acquire the skills necessary to identify developmental levels and learning styles of pupils and the necessary knowledge, techniques, and materials to provide appropriate instruction.

(4) To develop and identify model demonstration sites.

(5) To provide for the certification of school personnel as trainers at each demonstration site.

54685.2. The Superintendent of Public Instruction shall select one county superintendent of schools to manage the implementation of the Early Intervention for School Success Program by February 1, 1986. The county superintendent of schools shall develop a management plan for the implementation of the program at 200 public school sites within the state before July 1, 1991.

54685.3. The management plan required by Section 54685.2 shall include the following activities:

(1) The dissemination of program information.

(2) The awarding of grants to schools representative of the ethnic, socioeconomic, and geographic diversity of the public school systems.

(3) Provisions for training, materials, and technical assistance.

(4) An adaptation of the Early Prevention of School Failure Program to meet local school needs, including identification of existing materials and development of new materials, if needed.

(5) Selection of successful sites as demonstration models for additional implementation of the plan.

(6) Certification of one primary teacher for each demonstration site to serve as a local trainer.

(7) Provisions for an annual program progress report by the county superintendent of schools and an evaluation of the program to the Legislature by the Legislative Analyst at the end of the third year.

54685.4. The selection of the county superintendent of schools for purposes of Section 54685.2 shall be based on a written application. The Superintendent of Public Instruction shall consider all of the following criteria:

(1) Experience in disseminating local, regional, and statewide educational programs.

(2) Experience in managing local, regional, and statewide educational programs.

(3) A willingness to serve as a statewide dissemination agency.

(4) A demonstrated understanding of the Early Prevention of School Failure Program.

(5) Experience in providing materials, training, and technical assistance for the Early Prevention of School Failure Program.

(6) The ability to adapt the Early Prevention of School Failure Program to meet specific needs.

(7) A system for the selection of sites for implementing the Early Intervention for School Success Program.

(8) A system to identify model programs from among the sites selected to implement a program.

(9) A demonstrated ability and commitment to continue dissemination of the program after the termination of state funding.

54685.5. The county superintendent selected may accept or reject, at his or her option, designation as manager of the program.

54685.6. The selection of participating sites shall be based on a written application by the school district and the criteria listed in Section 54685.7. The criteria shall be verified by the school district's governing board prior to submission of the written application.

54685.7. The criteria to be used in selecting school sites as participants shall be based on the extent to which the school demonstrates all of the following:

(1) A need for the program.

(2) The ability and commitment to disseminate the model program, to serve as a model site, to release a teacher certified as a trainer in the program, to collect evaluation data, and to demonstrate an interest to continue to employ successful programs after termination of state funding.

54685.8. The school district or school sites selected may accept or reject, at their option, designation as participating sites or demonstration models.

54685.9. The techniques of the Early Prevention of School Failure Model Program which shall be included in the Early Intervention for School Success Program include all of the following:

(1) The use of a child study team approach for the assessment and identification of preacademic learning deficiencies in children between the ages of four to seven, inclusive, as appropriate.

(2) The use of screening instruments provided in English, Spanish, Laotian, Vietnamese, and Cambodian languages, for determination of students' developmental levels in language, auditory, visual, fine motor, and gross motor skills, adapted to meet California needs.

(3) The selection and application of educational materials appropriate to students' identified developmental levels.

54686. Training received by a teacher in techniques for the Early

Intervention for School Success Program shall apply toward the requirement of professional growth, as required by subdivision (b) of Section 44277.

54686.1. The county superintendent of schools selected pursuant to Section 54685.2, commencing with the 1987–88 fiscal year, shall annually report to the Legislature on the status of the implementation of the program, and shall include, but not be limited to, the number of school personnel trained, the number of schools implementing the program, the number of certified trainers available, and data on the impact of the program on student performance. At the end of the third year the Legislative Analyst shall evaluate the program and report his or her findings to the Legislature.

54686.2. This article shall remain in effect only until July 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted and becomes operative before July 1, 1991, deletes or extends that date.

SEC. 2. The sum of one hundred five thousand dollars ($105,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction to be awarded to the county superintendent of schools selected pursuant to Section 54685.2 of the Education Code for startup administrative costs for the 1985–86 fiscal year for purposes of establishing the Early Intervention for School Success Program created by this act.

CHAPTER 1531

An act to amend Sections 51, 297, 298, 299, and 299.1 of, to add Sections 77, 295.1, and 299.5 to, and to add Chapter 6.5 (commencing with Section 295.1) to Part 5 of, the Metropolitan Water District Act (Chapter 209 of the Statutes of 1969), relating to metropolitan water districts.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 51 of the Metropolitan Water District Act (Chapter 209 of the Statutes of 1969) is amended to read:

Sec. 51. The board shall consist of at least one representative from each member public agency. The representatives shall serve without compensation from the district. They shall, at the option of the agency, either be designated and appointed by the chief executive officer of the member public agency with the consent and approval of the governing body of the agency or be selected by a majority vote of the governing body of the agency.

SEC. 2. Section 77 is added to the Metropolitan Water District

Act (Chapter 209 of the Statutes of 1969), to read:

Sec. 77. The board may by resolution change the name of the district. A certified copy of the resolution shall be recorded in the office of the recorder of every county wherein any portion of the area of the district is located and shall be filed with the Secretary of State and the county clerk of every such county.

SEC. 2.5. Chapter 6.5 (commencing with Section 295.1) is added to Part 5 of the Metropolitan Water District Act (Chapter 209 of the Statutes of 1969), to read:

CHAPTER 6.5. VARIABLE RATE OBLIGATIONS

295.1. Bonds and other evidences of indebtedness issued pursuant to this part may, if authorized by the resolution or ordinance providing for their issuance, bear interest at a variable rate and be issued in the form of notes, bonds, or other evidences of indebtedness. Notwithstanding any other provision of this part, proceeds of obligations issued pursuant to this chapter may be spent on any purpose for which a district is authorized to spend money. In addition to providing for the matters otherwise required by this part and additional matters as the board deems necessary or convenient, the resolution or ordinance shall recite all of the following:

(a) The method by which the interest rate shall be established from time to time or may convert from a variable to a fixed rate.

(b) The maximum interest rate which the district may pay on the obligations. The variable rate shall on no day exceed the maximum rate permitted for obligations 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 obligations 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 obligations if the obligations 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.

(c) The particular period or periods of time for which each value of the variable interest rate shall remain in effect, or the times upon which any change in the variable interest rate will become effective.

(d) The rights, if any, of the holders of the obligations to receive payment of the principal amount of their obligations, prior to their stated maturity, and accrued interest upon request. These payments shall come from the district unless proceeds are available from remarketing to a third party or a credit facility is utilized.

(e) The dates, which may be more frequent than semiannual or which may vary from time to time, on which accrued interest on the obligations will be paid.

295.2. Notwithstanding any other provision of this part, the board may, by majority vote, sell obligations described in Section 295.1 at

a private sale, upon the terms and conditions as the board may deem necessary. These obligations shall be sold at not less than 95 percent of the principal amount thereof.

295.3. The board may enter into contracts and agreements with investment banking firms, banks, insurance companies, or other individuals or institutions as the board deems incident, necessary, or convenient to the issuance of the obligations described in Section 295.1. Goods, services, and financial facilities that may be provided to the district pursuant to these contracts include, but are not limited to, the following: provision of a letter of credit; an insurance or surety policy or any other device to provide an additional source of repayment of the obligations; the determination from time to time of the interest rate to be borne by the obligations; trustee services; remarketing agent services; and paying agent, transfer agent, and registrar services. The district's contracts with the providers of these goods, services, and facilities shall be valid to the same extent that the obligation to which the contracts relate is valid.

Section 21565 of the Public Contract Code shall not apply to contracts entered into by the district pursuant to this section.

SEC. 3. Section 297 of the Metropolitan Water District Act (Chapter 209 of the Statutes of 1969) is amended to read:

Sec. 297. Certificates issued by a district pursuant to this chapter may be negotiable or nonnegotiable, and all certificates shall be, and shall recite upon their face that they are, payable, both as to principal and interest, out of any revenues of the district which may legally be applied to the payment of the indebtedness evidenced by the certificates as determined by and set forth in an indenture or resolution duly adopted by the board of directors. The word "revenues" as used in this chapter shall refer to any income and revenues derived from the sale of water and power, annexation charges (whether collected through tax levies or otherwise), grants, available tax revenues, or any other legally available funds. In no event shall the resolution or indenture preclude payment from the proceeds of sale of other certificates issued pursuant to this chapter or from amounts paid or advanced by banks or other financial institutions pursuant to credit facilities established pursuant to Section 299.1, or from any other lawfully available source of funds.

SEC. 4. Section 298 of the Metropolitan Water District Act (Chapter 209 of the Statutes of 1969) is amended to read:

Sec. 298. In order to exercise the power to borrow money and incur indebtedness pursuant to this chapter, the board shall adopt a resolution or approve an indenture authorizing the sale and issuance of certificates for that purpose, which resolution or indenture shall specify all of the following:

(a) The purpose or purposes for which the certificates are to be issued.

(b) The maximum principal amount of the certificates which may be outstanding at any one time.

(c) The maximum interest cost, to be determined in the manner

specified in the resolution or indenture, to be incurred through the issuance of the certificates.

(d) The maximum maturities of the certificates which shall not exceed one year from the date or dates of issue.

(e) The source of payment of the certificates, subject to Section 297.

(f) The form and manner of execution of the certificates.

(g) Any covenants and obligations to certificate holders which the board may include in its discretion.

SEC. 5. Section 299 of the Metropolitan Water District Act (Chapter 209 of the Statutes of 1969) is amended to read:

Sec. 299. The board may also provide, in its discretion, for any of the following:

(a) The sale and issuance of the certificates, at the times, in the manner (either through public or private sale), in the amounts, with the maturities not exceeding the maximum maturities specified in the resolution or indenture pursuant to Section 298, at the rate of interest, the rate of discount from par, and with any other terms and conditions deemed appropriate by the general manager of the district or any other officer or employee designated by the board.

(b) The appointment of one or more banks or trust companies, either inside or outside the state, as depository for safekeeping and as agent for the authentication, registration, transfer, delivery, and payment of the certificates.

(c) The appointment of one or more persons or firms to assist the district in the sale of the certificates, whether as sales agents, dealer managers, or in some other comparable capacity.

(d) The refunding of the certificates from time to time without further action by the board, unless and until the board specifically revokes that authority to refund.

(e) Other terms and conditions the board may deem appropriate.

SEC. 6. Section 299.1 of the Metropolitan Water District Act (Chapter 209 of the Statutes of 1969) is amended to read:

Sec. 299.1. In order to enhance the marketability of the certificates, the board may arrange with one or more banks or other financial institutions to provide credit facilities, including, but not limited to, letters of credit, lines of credit, standby purchase agreements, and insurance policies, as an additional source of payment of the certificates. Any obligation of a district to repay amounts advanced pursuant to any credit facility established pursuant to this section may be evidenced by negotiable or nonnegotiable promissory notes or other evidences of indebtedness payable from revenues, in the form and with terms as the board may prescribe.

SEC. 7. Section 299.2 is added to the Metropolitan Water District Act (Chapter 209 of the Statutes of 1969), to read:

Sec. 299.2. This chapter is complete authority for the issuance of certificates and the obtaining of credit facilities under this chapter, and no action or proceeding not required by this chapter shall be

necessary for the valid authorization of indebtedness under this chapter. The powers conferred by this chapter are in addition and supplemental to, and are not in substitution for, and the limitations imposed by this chapter shall not affect, the powers conferred by any other chapter of this act or by any other law.

SEC. 8. Section 299.5 is added to the Metropolitan Water District Act (Chapter 209 of the Statutes of 1969), to read:

299.5. Except as provided in Section 295.1, the maximum interest payable on bonds or other evidences of indebtedness issued pursuant to this part shall be that which is permitted under Section 53541 of the Government Code.

SEC. 9. Sections 3, 5, and 7 of this act are intended to clarify and do not constitute a change in existing law.

CHAPTER 1532

An act to amend Section 22229.2 of, and to add Sections 23000.1 and 23923 to, the Education Code, and to add Section 17091.5 to the Government Code, relating to state retirement systems, and making an appropriation therefor.

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

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

SECTION 1. Section 22229.2 of the Education Code is amended to read:

22229.2. (a) The compensation of the members of the system who are appointed to the board, or by the board to a committee or subcommittee, or to a panel of the system, shall not be reduced by the employing agency or school district by which the members are regularly employed for any absence from service occasioned by attendance upon the business of the board, pursuant to Section 22229.1.

(b) Each school district which employs a member appointed pursuant to Section 22229.1 and which employs a person to replace such member during attendance at meetings of the board, or meetings of committees or subcommittees of the board, or when serving as a panel member of the system, thereof, or when carrying out other duties as may be approved by the board, shall be reimbursed from the Teachers' Retirement Fund for the cost incurred by employing a replacement.

SEC. 2. Section 23000.1 is added to the Education Code, to read:

23000.1. Notwithstanding Sections 22804, 23000, and 23404, each school district, community college district, county board of education, and county superintendent of schools, may pick up, for the sole purpose of deferring taxes, 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 employee's contributions towards retirement made by members of the State Teachers' Retirement System.

SEC. 3. Section 23923 is added to the Education Code, to read:

23923. Any warrant in an amount less than two thousand dollars ($2,000) paid by the system, for the month in which a retirant or a disabilitant dies, shall not be invalidated by the system, except upon the request of the beneficiary of the retirant or disabilitant.

SEC. 4. Section 17091.5 is added to the Government Code, to read:

17091.5. In the case of a lost or destroyed warrant issued by the Controller payable to a retirant, beneficiary, or disabilitant of a state retirement system, for a monthly allowance, the Controller may accept an application and affidavit filed by the state retirement system on behalf of the payee. No indemnity or hold harmless agreement shall be required with such an application.

SEC. 5. The amendments made by this act to Section 22229.2 of the Education Code shall be applicable to all pending related claims or requests based on services performed on or after July 1, 1984.

SEC. 6. 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. 7. The sum of not to exceed four hundred thousand dollars ($400,000) is hereby appropriated from the State Teachers' Retirement Fund to the State Teachers' Retirement System, for expenditure as follows:

(a) Not to exceed two hundred fifty thousand dollars ($250,000), with the approval of the Department of Finance, to reimburse the State Teachers' Retirement System for any costs resulting from implementation of Section 2 of this act by school employers.

(b) Not to exceed one hundred fifty thousand dollars ($150,000) to finance a study of the system. The study shall focus exclusively upon a review of the adequacy of service provided the membership of the system, including an assessment of the interaction among the Superintendent of Public Instruction, the county superintendents of schools, the Chancellor of the California Community Colleges, the individual school employers, and the system, in meeting the public service objectives of the system; the ease of identification and access of the present headquarters facility; and the need, if any, for additional offices. The selection of the consultant shall be made by the Legislative Analyst in consultation with the Teachers' Retirement Board and the Department of Finance. The study shall be based upon criteria developed by the Legislative Analyst, the Department of Finance, the Teachers' Retirement Board, and the

staff of the Legislature. The consultant shall report the findings and recommendations to the Legislative Budget Committee by December 1, 1986. In addition to the study, the Office of Information Technology or the Stephen P. Teale Data Center or both shall examine the system's use of data processing and other technology for providing services to, and communication with, the system's clientele and shall report the resulting findings and recommendations to the Joint Legislative Budget Committee by December 1, 1986.

CHAPTER 1533

An act to amend Section 11366.5 of, and to add Section 11366.6 to, the Health and Safety Code, and to add Section 1203.074 to the Penal Code, relating to controlled substances.

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

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

SECTION 1. Section 11366.5 of the Health and Safety Code is amended to read:

11366.5. (a) Any person who has under his or her management or control any building, room, space, or enclosure, either as an owner, lessee, agent, employee, or mortgagee, who knowingly rents, leases, or makes available for use, with or without compensation, the building, room, space, or enclosure for the purpose of unlawfully manufacturing, storing, or distributing any controlled substance for sale or distribution shall be punished by imprisonment in the county jail for not more than one year, or in the state prison.

(b) Any person who has under his or her management or control any building, room, space, or enclosure, either as an owner, lessee, agent, employee, or mortgagee, who knowingly allows the building, room, space, or enclosure to be fortified to suppress law enforcement entry in order to further the sale of any amount of cocaine, heroin, or phencyclidine and who obtains excessive profits from the use of the building, room, space, or enclosure shall be punished by imprisonment in the state prison for two, three, or four years.

(c) Any person who violates this section after previously being convicted of a violation of this section shall be punished by imprisonment in the state prison for two, three, or four years.

(d) For the purposes of this section, "excessive profits" means the receipt of consideration of a value substantially higher than fair market value.

SEC. 2. Section 11366.6 is added to the Health and Safety Code, to read:

11366.6. Any person who utilizes a building, room, space, or

enclosure specifically designed to suppress law enforcement entry in order to sell or possess for sale any amount of cocaine, heroin, or phencyclidine, shall be punished by imprisonment in the state prison for three, four, or five years.

SEC. 3. Section 1203.074 is added to the Penal Code, to read:

1203.074. (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 person who is convicted of violating Section 11366.6 of the Health and Safety Code.

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 1534

An act to amend Section 17630 of, to add Sections 17522, 17523, and 17524 to, and to add Article 5 (commencing with Section 17615) to Chapter 4 of Part 7 of Division 4 of Title 2 of, the Government Code, and to amend Section 2239 of the Revenue and Taxation Code, relating to costs mandated by the state, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

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

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

SECTION 1. Section 17522 is added to the Government Code, to read:

17522. (a) "Reimbursement claim" means any claim for costs incurred by a local agency or school district filed with the Controller against an appropriation made for the purpose of paying these claims.

(b) "Approved reimbursement claim" means that amount of a claim filed pursuant to subdivision (a) which is determined by the Controller to be the actual cost of the claim.

(c) "Entitlement claim" means any claim filed by a local agency or school district with the Controller for the sole purpose of

establishing or adjusting a base year entitlement. All entitlement claims shall be subject to the provisions of Section 17616.

SEC. 2. Section 17523 is added to the Government Code, to read:

17523. "Deflator" means the Implicit Price Deflator for the Costs of Goods and Services to Governmental Agencies, as determined by the Department of Finance.

SEC. 3. Section 17524 is added to the Government Code, to read:

17524. "Base year entitlement" means that amount determined to be the average for the approved reimbursement claims of each local agency or school district for the three preceding fiscal years adjusted by the change in the deflator. A base year entitlement shall not include any nonrecurring or initial startup costs incurred by a local agency or school district in any of those three fiscal years. For those mandates which become operative on January 1 of any year, the amount of the "approved reimbursement claim" for the first of the three years may be computed by annualizing the amount claimed for the six-month period of January through June in that first year, excluding nonrecurring or startup costs.

SEC. 4. Article 5 (commencing with Section 17615) is added to Chapter 4 of Part 7 of Division 4 of Title 2 of the Government Code, to read:

Article 5. State Mandate Apportionments System

17615. The Legislature finds and declares that the existing system for reimbursing local agencies and school districts for actual costs mandated by the state on an annual claim basis is time consuming, cumbersome, and expensive at both the local and state levels. The Controller must process voluminous claims with all claims subject to a desk audit and selected claims also subject to a field audit. Local agencies are required to maintain extensive documentation of all claims in anticipation of such an audit. The volume of these records is substantial and will continue to grow with no relief in sight as new programs are mandated. The cost to local agencies and school districts for filing claims, and for maintaining documentation and responding to the Controller's audits is substantial. The current administrative cost to both state and local governments represents a significant expenditure of public funds with no apparent benefit to the taxpayers.

It is the intent of the Legislature to streamline the reimbursement process for costs mandated by the state by creating a system of state mandate apportionments to fund the costs of certain programs mandated by the state.

17615.1. Notwithstanding the provisions of Section 2231 of the Revenue and Taxation Code, the commission shall establish a procedure for reviewing, upon request, mandated cost programs for which appropriations have been made by the Legislature for the 1982–83, 1983–84, and 1984–85 fiscal years, or any three consecutive fiscal years thereafter. At the request of the Department of Finance,

the Controller, or any local agency or school district receiving reimbursement for the mandated program, the commission shall review the mandated cost program to determine whether the program should be included in the State Mandates Apportionment System. If the commission determines that the State Mandates Apportionment System would accurately reflect the costs of the state mandated program, the commission shall direct the Controller to include the program in the State Mandates Apportionment System.

17615.2. (a) Notwithstanding the provisions of Section 2231 of the Revenue and Taxation Code, after November 30, 1985, for those programs included in the State Mandates Apportionment System, after approval by the commission, there shall be disbursed by the Controller to each local agency and school district which has submitted a reimbursement claim for costs mandated by the state in the 1982–83, 1983–84, and the 1984–85 fiscal years, or any three consecutive fiscal years thereafter, an amount computed by averaging the approved reimbursement claims for this three-year period. The amount shall first be adjusted according to any changes in the deflator. Funds for these purposes shall be available to the extent they are provided for in the Budget Act of 1985 and the Budget Act for any subsequent fiscal year thereafter.

(b) When the Controller has made payment on claims prior to commission approval of the program for inclusion in the State Mandates Apportionment System, the payment shall be adjusted in the next apportionment to the amount which would have been subvened to the local agency or school district for that fiscal year had the State Mandates Apportionment System been in effect at the time of the initial payment.

17615.3. Notwithstanding the provisions of Section 2231 of the Revenue and Taxation Code, by November 30, 1986, and by November 30 of each year thereafter, for those programs included in the State Mandates Apportionment System, the Controller shall recalculate each allocation for each local agency and school district for the 1985–86 fiscal year, by using the actual change in the deflator for that year. That recalculated allocation shall then be adjusted by the estimated change in the deflator for the 1986–87 fiscal year, and each fiscal year thereafter, to establish the allocation amount for the 1986–87 fiscal year, and each fiscal year thereafter. The Controller shall then subvene that amount after adjusting it by any amount of overpayment or underpayment in the 1985–86 fiscal year, and each fiscal year thereafter, due to a discrepancy between the actual change and the estimated change in the deflator. Funds for these purposes shall be available to the extent they are provided for in the Budget Act of 1986 and the Budget Act for any subsequent fiscal year thereafter.

17615.4. (a) When a new mandate imposes costs which are funded either by legislation, in local government claims bills, or from the State Mandates Claim Fund, local agencies and school districts may file reimbursement claims as required by Section 2231 of the

Revenue and Taxation Code, for a minimum of three years after the initial funding of the new mandate.

(b) After actual cost claims are submitted for three fiscal years against such a new mandate, the commission shall determine, upon request of the Controller or a local entity or school district receiving reimbursement for the program, whether the amount of the base year entitlement adjusted by changes in the deflator accurately reflects the costs incurred by the local agency or school district. If the commission determines that the base year entitlement, as adjusted, does accurately reflect the costs of the program, the commission shall direct the Controller to include the program in the State Mandates Apportionment System.

(c) The Controller shall make recommendations to the commission and the commission shall consider the Controller's recommendations for each new mandate submitted for inclusion in the State Mandates Apportionment System. All claims included in the State Mandates Apportionment System pursuant to this section are also subject to the audit provisions of Section 17616.

17615.5. (a) If any local agency or school district has an established base year entitlement which does not include costs for a particular mandate, that local agency or school district may submit reimbursement claims for a minimum of three consecutive years, or entitlement claims covering a minimum of three consecutive years, after which time its base year entitlement may be adjusted by an amount necessary to fund the costs of that mandate.

(b) If any local agency or school district has no base year entitlement, but wishes to begin claiming costs of one or more of the mandates included in the State Mandates Apportionment System, that local agency or school district may submit reimbursement claims for a minimum of three consecutive years, or entitlement claims covering the preceding three consecutive years, after which time a base year entitlement may be established in an amount necessary to fund the costs of the mandate or mandates.

17615.6. If a local agency or school district realizes a decrease in the amount of costs incurred because a mandate is discontinued, or made permissive, the Controller shall determine the amount of the entitlement attributable to that mandate by determining the base year amount for that mandate for the local agency or school district plus the annual adjustments. This amount shall be subtracted from the annual subvention which would otherwise have been allocated to the local agency or school district.

17615.7. If a mandated program included in the State Mandates Apportionment System is modified or amended by the Legislature or by executive order, and the modification or amendment significantly affects the costs of the program, as determined by the commission, the program shall be removed from the State Mandate Apportionment System, and the payments reduced accordingly. Local entities or school districts may submit actual costs claims for a period of three years, after which the program may be considered

for inclusion in the State Mandates Apportionment System, pursuant to the provisions of Section 17615.4.

17615.8. (a) The commission shall establish a procedure for reviewing, upon request, any apportionment or base year entitlement of a local agency or school district.

(b) Local agencies and school districts which request such a review shall maintain and provide those records and documentation as the commission or its designee determines are necessary for the commission or its designee to make the required determinations. With the exception of records required to verify base year entitlements, the records may not be used to adjust current or prior apportionments, but may be used to adjust future apportionments.

(c) If the commission determines that an apportionment or base year entitlement for funding costs mandated by the state does not accurately reflect the costs incurred by the local agency or school district for all mandates upon which that apportionment is based, the commission shall direct the Controller to adjust the apportionment accordingly. For the purposes of this section, an apportionment or a base year entitlement does not accurately reflect the costs incurred by a local agency or school district if it falls short of reimbursing, or overreimburses, that local agency's or school district's actual costs by 20 percent or by one thousand dollars ($1,000), whichever is less.

(d) If the commission determines that an apportionment or base year entitlement for funding costs mandated by the state accurately reflects the costs incurred by the local agency or school district for all mandates upon which that apportionment is based, the commission may, in its discretion, direct the Controller to withhold, and, if so directed, the Controller shall withhold the costs of the commission's review from the next apportionment to the local agency or school district, if the commission review was requested by the local agency or school district.

17615.9. The commission shall periodically review programs funded under the State Mandate Apportionments System to evaluate the effectiveness or continued statewide need for each such mandate.

17616. Notwithstanding the provisions of Section 2231 of the Revenue and Taxation Code, the Controller shall have the authority to do either or both of the following:

(a) Audit the fiscal years comprising the base year entitlement no later than three years after the year in which the base year entitlement is established. The results of such audits shall be used to adjust the base year entitlements and any subsequent apportionments based on that entitlement, in addition to adjusting actual cost payments made for the base years audited.

(b) Verify that any local agency or school district receiving funds pursuant to this article is providing the reimbursed activities.

SEC. 5. Section 17630 of the Government Code is amended to read:

17630. Except for Article 5, the provisions of this part shall be

applicable to claims for state reimbursement of costs mandated by the state on and after January 1, 1985. All claims for state reimbursement filed under Article 1 (commencing with Section 2201), Article 2 (commencing with Section 2225), Article 3 (commencing with Section 2240), Article 3.5 (commencing with Section 2250), and Article 3.6 (commencing with Section 2256) of Chapter 3 of Part 4 of Division 1 of the Revenue and Taxation Code which have not been included in a local government claims bill pursuant to Section 2255 of the Revenue and Taxation Code enacted before January 1, 1985, shall be transferred to and considered by the commission pursuant to the provisions of this part.

SEC. 6. Section 2239 of the Revenue and Taxation Code is amended to read:

2239. (a) Except as provided in subdivision (b) and Article 5 (commencing with Section 17615) of Chapter 4 of Part 7 of Division 4 of Title 2 of the Government Code, the provisions of Article 1 (commencing with Section 2201), Article 2 (commencing with Section 2225), Article 3 (commencing with Section 2240), Article 3.5 (commencing with Section 2250), and Article 3.6 (commencing with Section 2256) of this chapter relating to state reimbursement to local agencies and school districts shall be applicable to costs mandated by the state before July 1, 1980.

(b) All claims for state reimbursement which have not been included in a local government claims bill pursuant to Section 2255 enacted before January 1, 1985, shall be transferred to and considered by the Commission on State Mandates as claims filed pursuant to subdivision (b) of Section 17551 of the Government Code.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

This act would provide significant cost savings to state and local agencies and in order for these savings to be realized as soon as possible, it is necessary that this act go into immediate effect.

CHAPTER 1535

An act to amend Section 25291 of, and to add Section 25284.7 to, the Health and Safety Code, relating to hazardous substances, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 25284.7 is added to the Health and Safety Code, to read:

25284.7. Notwithstanding the provisions of Section 25292 or the regulations adopted by the board pursuant to Section 25299.3, owners or operators, who have been issued interim permits in accordance with Section 25284.5, as amended by Assembly Bill 2239 of the 1985–86 Regular Session of the Legislature, and who select a monitoring alternative which has been adopted by the board and which requires annual testing, may conduct the first of the annual tests prior to March 1, 1986. If the monitoring alternative selected by the owner or operator is approved by the local agency, the second of the annual tests need not be conducted until 30 months after the first test. Thereafter, the test shall be repeated annually.

The provisions of this section shall be optional, at the discretion of a local agency as defined in Section 25281.

SEC. 2. Section 25291 of the Health and Safety Code is amended to read:

25291. Every underground storage tank installed after January 1, 1984, shall meet all of the following requirements:

(a) Be designed and constructed to provide primary and secondary levels of containment of the hazardous substances stored in it in accordance with the following performance standards:

(1) Primary containment shall be product-tight.

(2) Secondary containment shall be constructed to prevent structural weakening as a result of contact with any released hazardous substances, and also shall be capable of storing the hazardous substances for the maximum anticipated period of time necessary for the recovery of any released hazardous substance.

(3) In the case of an installation with one primary container, the secondary containment shall be large enough to contain at least 100 percent of the volume of the primary tank.

(4) In the case of multiple primary tanks, the secondary container shall be large enough to contain 150 percent of the volume of the largest primary tank placed in it, or 10 percent of the aggregate internal volume of all primary tanks, whichever is greater.

(5) If the facility is open to rainfall, then the secondary containment shall be able to additionally accommodate the maximum volume of a 24-hour rainfall as determined by a 25-year storm history.

(6) Single-walled containers do not fulfill the requirement of an underground storage tank providing both a primary and a secondary containment. However, an underground storage tank with a primary container constructed with a double complete shell shall be deemed to have met the requirements for primary and secondary containment set forth in this section if the outer shell is constructed primarily of nonearthen materials, including, but not limited to, concrete, steel, and plastic, which provide structural support and a continuous leak detection system with alarm is located in the space between the shells; the system is capable of detecting the entry of

hazardous substances from the inner container into the space; and the system is capable of detecting water intrusion into the space from the outer shell.

(7) The design and construction of underground storage tanks for motor vehicle fuels storage need not meet the requirements of paragraphs (1) to (6), inclusive, if all of the following conditions exist:

(A) The primary containment construction is of glass fiber reinforced plastic, cathodically protected steel, or steel clad with glass fiber reinforced plastic.

(B) Any alternative primary containment is installed in conjunction with a system that will intercept and direct a leak from any part of the tank to a monitoring well to detect any release of motor vehicle fuels stored in the tank.

(C) The system designed to provide early leak detection and response, and to protect the groundwater from releases.

(D) The monitoring is in accordance with the alternative method identified in paragraph (4) of subdivision (b) of Section 25292.

(E) Pressurized piping systems connected to underground storage tanks used for the storage of motor vehicle fuels and monitored in accordance with paragraph (4) of subdivision (b) of Section 25292 also meet the requirements of this subdivision provided that the tank meets the conditions of subparagraphs (A) to (D), inclusive.

(b) Be designed and constructed with a monitoring system capable of detecting the entry of the hazardous substance stored in the primary containment into the secondary containment. If water could intrude into the secondary containment, a means of monitoring for water intrusion and for safely removing the water shall also be provided.

(c) When required by the local agency, a means of overfill protection for any primary tank, including an overfill prevention device or an attention-getting higher level alarm, or both. Primary tank filling operations of underground storage tanks containing motor vehicle fuels which are visually monitored and controlled by a facility operator satisfy the requirements of this subdivision.

(d) If different substances are stored in the same tank and in combination may cause a fire or explosion, or the production of flammable, toxic, or poisonous gas, or the deterioration of a primary or secondary container, then they shall be separated in both the primary and secondary containment so as to avoid potential intermixing.

(e) If water could enter into the secondary containment by precipitation or infiltration, the facility shall contain a means of removing the water by the owner or operator. This removal system shall also prevent uncontrolled removal of this water and provide for a means of analyzing the removed water for hazardous substance contamination and a means of disposing of the water, if so contaminated, at an authorized disposal facility.

(f) Before the underground storage tank is covered, enclosed, or

placed in use, the standard installation testing for requirements for underground storage systems specified in Section 2-7 of the Flammable and Combustible Liquids Code, adopted by the National Fire Protection Association, (NFPA 30) as amended and published in the respective edition of the Uniform Fire Code, shall be followed.

(g) Before the underground storage tank is placed in service, the underground storage systems shall be tested in operating condition using a precision test as defined in National Fire Protection Association Pamphlet 329, "Recommended Practice for Handling Underground Leakage of Flammable and Combustible Liquids," as amended, for proving the integrity of an underground storage tank.

(h) If the underground storage tank is designed to maintain a water level in the secondary containment, the tank shall be equipped with a safe method of removing any excess water to a holding facility and the owner or operator shall inspect the holding facility monthly for the presence of excess water overflow. If excess water is present in the holding facility, the permitholder shall provide a means to analyze the water for hazardous substance contamination and a means to dispose of the water, if so contaminated, at an authorized disposal facility.

SEC. 3. Section 25291 of the Health and Safety Code is amended to read:

25291. Every underground storage tank installed after January 1, 1984, shall meet all of the following requirements:

(a) Be designed and constructed to provide primary and secondary levels of containment of the hazardous substances stored in it in accordance with the following performance standards:

(1) Primary containment shall be product-tight.

(2) Secondary containment shall be constructed to prevent structural weakening as a result of contact with any released hazardous substances, and also shall be capable of storing the hazardous substances for the maximum anticipated period of time necessary for the recovery of any released hazardous substance.

(3) In the case of an installation with one primary container, the secondary containment shall be large enough to contain at least 100 percent of the volume of the primary tank.

(4) In the case of multiple primary tanks, the secondary container shall be large enough to contain 150 percent of the volume of the largest primary tank placed in it, or 10 percent of the aggregate internal volume of all primary tanks, whichever is greater.

(5) If the facility is open to rainfall, then the secondary containment shall be able to additionally accommodate the maximum volume of a 24-hour rainfall as determined by a 25-year storm history.

(6) Single-walled containers do not fulfill the requirement of an underground storage tank providing both a primary and a secondary containment. However, an underground storage tank with a primary container constructed with a double complete shell shall be deemed to have met the requirements for primary and secondary

containment set forth in this section if the outer shell is constructed primarily of nonearthen materials, including, but not limited to, concrete, steel, and plastic, which provide structural support and a continuous leak detection system with alarm is located in the space between the shells; the system is capable of detecting the entry of hazardous substances from the inner container into the space; and the system is capable of detecting water intrusion into the space from the outer shell.

(7) The design and construction of underground storage tanks for motor vehicle fuels storage need not meet the requirements of paragraphs (1) to (6), inclusive, if all of the following conditions exist:

(A) The primary containment construction is of glass fiber reinforced plastic, cathodically protected steel, or steel clad with glass fiber reinforced plastic.

(B) Any alternative primary containment is installed in conjunction with a system that will intercept and direct a leak from any part of the tank to a monitoring well to detect any release of motor vehicle fuels stored in the tank.

(C) The system designed to provide early leak detection and response, and to protect the groundwater from releases.

(D) The monitoring is in accordance with the alternative method identified in paragraph (4) of subdivision (b) of Section 25292.

(E) Pressurized piping systems connected to underground storage tanks used for the storage of motor vehicle fuels and monitored in accordance with paragraph (4) of subdivision (b) of Section 25292 also meet the requirements of this subdivision provided that the tank meets the conditions of subparagraphs (A) to (D), inclusive.

(b) Be designed and constructed with a monitoring system capable of detecting the entry of the hazardous substance stored in the primary containment into the secondary containment. If water could intrude into the secondary containment, a means of monitoring for water intrusion and for safely removing the water shall also be provided.

(c) When required by the local agency, a means of overfill protection for any primary tank, including an overfill prevention device or an attention-getting higher level alarm, or both. Primary tank filling operations of underground storage tanks containing motor vehicle fuels which are visually monitored and controlled by a facility operator satisfy the requirements of this subdivision.

(d) If different substances are stored in the same tank and in combination may cause a fire or explosion, or the production of flammable, toxic, or poisonous gas, or the deterioration of a primary or secondary container, then they shall be separated in both the primary and secondary containment so as to avoid potential intermixing.

(e) If water could enter into the secondary containment by precipitation or infiltration, the facility shall contain a means of removing the water by the owner or operator. This removal system

shall also prevent uncontrolled removal of this water and provide for a means of analyzing the removed water for hazardous substance contamination and a means of disposing of the water, if so contaminated, at an authorized disposal facility.

(f) Before the underground storage tank is covered, enclosed, or placed in use, the standard installation testing for requirements for underground storage systems specified in Section 2-7 of the Flammable and Combustible Liquids Code, adopted by the National Fire Protection Association, (NFPA 30) as amended and published in the respective edition of the Uniform Fire Code, shall be followed.

(g) Before the underground storage tank is placed in service, the underground storage systems shall be tested in operating condition using a precision test as defined in National Fire Protection Association Pamphlet 329, "Recommended Practice for Handling Underground Leakage of Flammable and Combustible Liquids," as amended, for proving the integrity of an underground storage tank.

(h) If the underground storage tank is designed to maintain a water level in the secondary containment, the tank shall be equipped with a safe method of removing any excess water to a holding facility and the owner or operator shall inspect the holding facility monthly for the presence of excess water overflow. If excess water is present in the holding facility, the permitholder shall provide a means to analyze the water for hazardous substance contamination and a means to dispose of the water, if so contaminated, at an authorized disposal facility.

SEC. 4. Section 1 of this bill shall become operative only if this bill and Assembly Bill 2239 of the 1985–86 Regular Session of the Legislature, are both enacted and become effective on or before January 1, 1986.

SEC. 5. Section 3 of this bill incorporates amendments to Section 25291 of the Health and Safety Code proposed by both this bill and AB 2239. 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 25291 of the Health and Safety Code, and (3) this bill is enacted after AB 2239, in which case Section 25291 of the Health and Safety Code, as amended by AB 2239, shall remain operative only until the operative date of this bill, at which time Section 3 of this bill shall become operative, and Section 2 of this bill shall not become operative.

SEC. 6. 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. 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:

Due to delays in the rulemaking process, and the need to commence testing of underground storage tanks as soon as possible in order to protect the state's groundwater, and in order to encourage voluntary early testing it is necessary that this act take effect immediately.

CHAPTER 1536

An act to amend Sections 1524, 1551, 1569.51, and 1596.887 of, and to add Sections 1569.19 and 1596.858 to, the Health and Safety Code, relating to community care facilities.

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

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

SECTION 1. Section 1524 of the Health and Safety Code is amended to read:

1524. Each new license or special permit issued pursuant to this chapter shall expire 12 months from the date of its issuance.

A renewal license or special permit may be issued for a period not to exceed two years, provided the licensee has been found not to be in violation of any statutory requirements or rules or regulations, during the preceding license period.

Application for renewal of a license or special permit shall be filed with the state department pursuant to departmental rules and regulations.

A license shall be forfeited by operation of law prior to its expiration date when one of the following occurs:

(a) The licensee sells or otherwise transfers the facility or facility property, except when change of ownership applies to transferring of stock when the facility is owned by a corporation, and when such transfer of stock does not constitute a majority change of ownership.

(b) The licensee surrenders the license to the department.

(c) The licensee moves a facility from one location to another. The department shall develop regulations to ensure that such facilities are not charged a full licensing fee and do not have to complete the entire application process when applying for a license for the new location.

(d) The licensee is convicted of an offense specified in subdivision (1) of Section 273a or Section 273d of the Penal Code, or is convicted of another crime specified in subdivision (c) of Section 667.5 of the Penal Code.

SEC. 2. Section 1524 of the Health and Safety Code is amended to read:

1524. Each new license or special permit issued pursuant to this

chapter shall expire 12 months from the date of its issuance.

A renewal license or special permit may be issued for a period not to exceed two years, provided the licensee has been found not to be in violation of any statutory requirements or rules or regulations, during the preceding license period.

Application for renewal of a license or special permit shall be filed with the state department pursuant to departmental rules and regulations.

A license shall be forfeited by operation of law prior to its expiration date when one of the following occurs:

(a) The licensee sells or otherwise transfers the facility or facility property, except when change of ownership applies to transferring of stock when the facility is owned by a corporation, and when such transfer of stock does not constitute a majority change of ownership.

(b) The licensee surrenders the license to the department.

(c) The licensee moves a facility from one location to another. The department shall develop regulations to ensure that such facilities are not charged a full licensing fee and do not have to complete the entire application process when applying for a license for the new location.

(d) The licensee is convicted of 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 is convicted of another crime specified in subdivision (c) of Section 667.5 of the Penal Code.

SEC. 3. Section 1551 of the Health and Safety Code is amended to read:

1551. (a) Proceedings for the suspension, revocation, or denial of a license, registration, or special permit under this chapter shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the state department shall have all the powers granted by such provisions. In the event of conflict between the provisions of this chapter and such provisions of the Government Code, the provisions of the Government Code shall prevail.

(b) In all proceedings conducted in accordance with this section, the standard of proof to be applied shall be by the preponderance of the evidence.

(c) The department shall commence and process licensure revocations under this chapter in a timely and expeditious manner. Notwithstanding a contrary provision in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, the Office of Administrative Hearings shall give priority calendar preference to licensure revocation hearings pursuant to this chapter, particularly where the health and safety of the clients are in question.

SEC. 4. Section 1569.19 is added to the Health and Safety Code, to read:

1569.19. Each new license or special permit issued pursuant to this chapter shall expire 12 months from the date of its issuance.

A renewal license or special permit may be issued for a period not to exceed two years, provided the licensee has been found not to be in violation of any statutory requirements or rules or regulations, during the preceding license period.

Application for renewal of a license or special permit shall be filed with the state department pursuant to departmental rules and regulations.

A license shall be forfeited by operation of law prior to its expiration date when one of the following occurs:

(a) The licensee sells or otherwise transfers the facility or facility property, except when change of ownership applies to transferring of stock when the facility is owned by a corporation and when such transfer of stock does not constitute a majority change in ownership.

(b) The licensee surrenders the license to the department.

(c) The licensee moves a facility from one location to another. The department shall develop regulations to ensure that such facilities are not charged a full licensing fee and do not have to complete the entire application process when applying for a license for the new location.

(d) The licensee is convicted of an offense specified in paragraph (1) of Section 273a or 273d of the Penal Code, or is convicted of another crime specified in subdivision (c) of Section 667.5 of the Penal Code.

SEC. 5. Section 1569.19 is added to the Health and Safety Code, to read:

1569.19. Each new license or special permit issued pursuant to this chapter shall expire 12 months from the date of its issuance.

A renewal license or special permit may be issued for a period not to exceed two years, provided the licensee has been found not to be in violation of any statutory requirements or rules or regulations, during the preceding license period.

Application for renewal of a license or special permit shall be filed with the state department pursuant to departmental rules and regulations.

A license shall be forfeited by operation of law prior to its expiration date when one of the following occurs:

(a) The licensee sells or otherwise transfers the facility or facility property, except when change of ownership applies to transferring of stock when the facility is owned by a corporation and when such transfer of stock does not constitute a majority change in ownership.

(b) The licensee surrenders the license to the department.

(c) The licensee moves a facility from one location to another. The department shall develop regulations to ensure that such facilities are not charged a full licensing fee and do not have to complete the entire application process when applying for a license for the new location.

(d) The licensee is convicted of 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 is convicted of another crime specified in

subdivision (c) of Section 667.5 of the Penal Code.

SEC. 6. Section 1569.51 as added to the Health and Safety Code by Senate Bill No. 185 of the 1985–86 Regular Session of the Legislature, is amended to read:

1569.51. (a) Proceedings for the suspension, revocation, or denial of a license under this chapter shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the state department shall have all the powers granted by these provisions. In the event of conflict between this chapter and those provisions of the Government Code, the provisions of the Government Code shall prevail.

(b) In all proceedings conducted in accordance with this section, the standard of proof to be applied shall be by the preponderance of the evidence.

(c) The department shall commence and process licensure revocations under this chapter in a timely and expeditious manner. Notwithstanding a contrary provision in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, the Office of Administrative Hearings shall give priority calendar preference to licensure revocation hearings pursuant to this chapter, particularly revocations where the health and safety of the clients is in question.

SEC. 7. Section 1596.858 is added to the Health and Safety Code, to read:

1596.858. A license shall be forfeited by operation of law prior to its expiration date when any one of the following occurs:

(a) The licensee sells or otherwise transfers the facility or facility property, except when change of ownership applies to transferring of stock when the facility is owned by a corporation, and when such transfer of stock does not constitute a majority change in ownership.

(b) The licensee surrenders the license to the department.

(c) The licensee moves the facility from one location to another. The department shall develop regulations to ensure that such facilities are not charged a full licensing fee and do not have to complete the entire application process when applying for license for the new location.

(d) The licensee is convicted of an offense specified in paragraph (1) of Section 273a or Section 273d of the Penal Code, or is convicted of another crime specified in subdivision (c) of Section 667.5 of the Penal Code.

SEC. 8. Section 1596.858 is added to the Health and Safety Code, to read:

1596.858. A license shall be forfeited by operation of law prior to its expiration date when any one of the following occurs:

(a) The licensee sells or otherwise transfers the facility or facility property, except when change of ownership applies to transferring of stock when the facility is owned by a corporation, and when such transfer of stock does not constitute a majority change in ownership.

(b) The licensee surrenders the license to the department.

(c) The licensee moves the facility from one location to another. The department shall develop regulations to ensure that such facilities are not charged a full licensing fee and do not have to complete the entire application process when applying for license for the new location.

(d) The licensee is convicted of 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 is convicted of another crime specified in subdivision (c) of Section 667.5 of the Penal Code.

SEC. 9. Section 1596.887 of the Health and Safety Code is amended to read:

1596.887. (a) Proceedings for the suspension, revocation, or denial of a license, registration, or special permit under this chapter 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 shall have all the powers granted by that chapter. In the event of conflict between the provisions of this chapter and those provisions of the Government Code, the provisions of the Government Code shall prevail.

(b) In all proceedings conducted in accordance with this section, the standard of proof to be applied shall be by the preponderance of the evidence.

(c) The department shall commence and process licensure revocations under this chapter in a timely and expeditious manner. Notwithstanding a contrary provision in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, the Office of Administrative Hearings shall give priority calendar preference to licensure revocation hearings pursuant to this chapter, particularly revocations where the health and safety of the clients are in question.

SEC. 10. (a) Sections 2 and 8 of this act shall become operative only if SB 339 of the 1985–86 Regular Session of the Legislature is chaptered, in which case Sections 1 and 7 shall not become operative.

(b) Section 6 of this act shall become operative only if SB 185 of the 1985–86 Regular Session of the Legislature is chaptered and adds Chapter 3.3 (commencing with Section 1569) to Division 1 of the Health and Safety Code, relating to residential care facilities for the elderly.

SEC. 11. (a) Section 4 of this act shall become operative only if SB 185 of the 1985–86 Regular Session of the Legislature is chaptered and adds Chapter 3.3 (commencing with Section 1569) to Division 1 of the Health and Safety Code, relating to residential care facilities for the elderly, and SB 339 of the 1985–86 Regular Session of the Legislature is not chaptered, in which case Section 5 of this act shall not become operative.

(b) Section 5 of this act shall become operative only if SB 339 and SB 185 of the 1985–86 Regular Session of the Legislature are both chaptered and SB 185 as chaptered adds Chapter 3.3 (commencing

with Section 1569) to Division 1 of the Health and Safety Code, relating to residential care facilities for the elderly, in which case Section 4 of this act shall not become operative.

CHAPTER 1537

An act to amend Section 27615 of, and to add and repeal Sections 26520.1, 26520.2, and 26520.3 of, the Health and Safety Code, relating to food.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. (a) The Legislature finds and declares that products which contain the following sulfite compounds constitute a significant health threat to sulfite sensitive individuals:

(1) Sulphur dioxide.
(2) Sodium bisulfite.
(3) Sodium metabisulfite.
(4) Sodium sulfite.
(5) Potassium bisulfite.
(6) Potassium metabisulfite.

(b) The Legislature further finds and declares that use of the above-listed compounds to enhance the appearance of foods consumed in restaurants has resulted in deaths and permanent brain injuries. Due to the widespread use of sulfite compounds by wholesale food processing establishments, it is not feasible for restaurants and other retailers to adequately warn customers of the presence of sulfites in food. The Legislature also finds that substitutes for sulfite food fresheners which pose no threat to human health are readily available at comparable cost.

(c) Therefore, it is the purpose of this act to ban the use of sulfite compounds in certain foods for the protection of the public health.

SEC. 2. Section 26520.1 is added to the Health and Safety Code, to read:

26520.1. (a) Sulfite compounds shall be deemed unsafe as food additives, as defined in Section 26013, for any of the following uses:

(1) Sulfite compounds added to any fruit or vegetable which is sold to be consumed in its raw or natural state.

(3) Sulfite compounds added to any fish or seafood at the wholesale or retail level.

(b) The prohibitions in this section shall not apply to each of the following:

(1) Fruits or vegetables to which sulfites are added prior to, or as part of, a cooking, fermenting, canning, freezing, drying, bottling, or dehydrating process.

(2) Use of sulfite compounds on shrimp or lobster at the production level which conforms with the United States Food and Drug Administration's Good Manufacturing Practices or sulfite compounds used on seafood or fish as a preservative in a manufacturing process provided that the application and labeling is in accordance with federal Food and Drug Administration regulations.

(c) For purposes of this section, "sulfite compounds" means:

(1) Sulphur dioxide.

(2) Sodium bisulfite.

(3) Sodium metabisulfite.

(4) Sodium sulfite.

(5) Potassium bisulfite.

(6) Potassium metabisulfite.

(d) This section shall remain in effect only until January 1, 1992, and as of that date is repealed unless a later statute which is enacted before January 1, 1992, extends or deletes that date.

SEC. 3. Section 26520.2 is added to the Health and Safety Code, to read:

26520.2. (a) Anyone who, during the course of business, knowingly adds any of the sulfite compounds enumerated in Section 26520.1 as a food additive for purposes prohibited by that section shall be deemed to have sold adulterated food and is subject to this article.

(b) This section shall remain in effect only until January 1, 1992, and as of that date is repealed unless a later statute which is enacted before January 1, 1992, extends or deletes that date.

SEC. 4. Section 26520.3 is added to the Health and Safety Code, to read:

26520.3. (a) The State Department of Health Services shall notify all wholesale and retail food facilities as to which the department enforces the Sherman Food, Drug, and Cosmetic Law concerning the ban on products enumerated in Section 26520.1 containing sulfites. The counties shall notify all wholesale and retail food facilities as to which the counties enforce the Sherman Food, Drug, and Cosmetic Law concerning the ban on products enumerated in Section 26520.1 containing sulfites.

(b) The Legislature finds that the use of sulfites on potato products has been linked to severe reactions in sulfite sensitive individuals. The Legislature therefore requests the State Department of Health Services to investigate the use of sulfites on potato products used in any food facility, as defined in Section 27521, except a grocery store, as defined in Section 27523.5, to determine:

(1) What levels of sulfites are present in these potato products.

(2) Whether processing and handling procedures result in uniform levels of sulfites on these potato products.

(3) Whether the use of sulfites on these potato products presents a threat to the public health.

The Department of Health Services shall conclude its investigation and make findings as to any restrictions required on sulfited potato

products by February 1, 1986, or within 60 days of that date if the state department determines that additional time is necessary, and shall make the findings available upon request.

(c) This section shall remain in effect only until January 1, 1992, and as of that date is repealed unless a later statute which is enacted before January 1, 1992, extends or deletes that date.

SEC. 5. Section 27615 of the Health and Safety Code is amended to read:

27615. Sulfites shall not be added to potentially hazardous foods.

SEC. 6. 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 1538

An act to add Section 52324.6 to the Education Code, relating to regional occupational centers and programs, and making an appropriation therefor.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 52324.6 is added to the Education Code, to read:

52324.6. (a) Any regional occupational program shall be eligible to apply for apportionments as a necessary small regional occupational program under this section if it is a regional occupational program with an annual total average daily attendance of 350 or less in the prior fiscal year.

The Superintendent of Public Instruction shall annually certify the eligibility of regional occupational programs for funding under this section, based upon high school enrollments in the California Basic Educational Data System (CBEDS) reports.

(b) The superintendent shall annually allocate regional occupational program small school service funding, in accordance with the schedule prescribed in this subdivision, for each comprehensive high school with an enrollment of 350 or less which exists within an eligible regional occupational program. Regional occupational programs that do not certify the operation of the prescribed daily minutes of regional occupational program instruction at each school shall have the total small school regional

occupational program service allocation reduced by a pro rata amount, based on the percentage of actual minutes operated in comparison to the total minutes required.

The necessary small regional occupational program service allocation schedule is as follows:

9th–12th Grade CBEDS Enrollment in a Comprehensive High School	Daily minutes of ROP Instruction for full funding	Small School ROP service allocation
0–50 students	180 minutes	$19,776
51–100 students	300 minutes	$33,026
101–150 students	360 minutes	$39,552
151–200 students	420 minutes	$46,078
201–250 students	480 minutes	$52,802
251–300 students	540 minutes	$59,328
301–350 students	600 minutes	$65,854

The small regional occupation program service allocation shall be adjusted annually by the same percentage cost-of-living adjustment applied to other regional occupational center and program revenue limits.

(c) If a regional occupational program applies for funding under this section, the regional occupational program shall certify to the Superintendent of Public Instruction all concurrently enrolled average daily attendance generated during the previous year in each school to which small regional occupational program service funds were allocated under subdivision (b). The average daily attendance certified under this subdivision shall be subtracted from the regional occupational program's prior year total allowable average daily attendance, and the remainder shall become the current year allowable regional occupational program average daily attendance for all nonconcurrently enrolled students and concurrently enrolled students from schools with enrollments larger than 351 students. The same annual growth rate applicable to all other regional occupational programs shall be applied to the adjusted allowable average daily attendance calculated for a regional occupational program under this subdivision.

(d) Total annual apportionments for regional occupational programs that qualify for funding under this section as necessary small regional occupational programs shall be calculated in accordance with the following formula:

Total Small School ROP Service Allocation Under Subdivision (b) X Instructional Minute Proration Factor +

Reported Average Students from Schools with Statewide Average

Daily Attendance for	Enrollments Over 351 and Nonconcurrently Enrolled Students up to the Maximum Adjusted Allowable Average Daily Attendance Under Subdivision (c)	X	ROP Revenue Limit or ROP Revenue Limit, Whichever is Greater =

Total Annual ROP Apportionment

(e) Nothing in this section shall be construed to require eligible regional occupational programs to apply for funding under this section. Eligible regional occupational programs shall have the option to apply for funding under this section, or to use the standard regional occupational program apportionment system.

(f) In fiscal years subsequent to the 1985–86 fiscal year, the prior year's apportionment under this section shall be annually adjusted by the same cost-of-living increase provided to regional occupational programs through the standard apportionment system.

SEC. 2. (a) The sum of up to five hundred forty thousand dollars ($540,000) is hereby reappropriated from the funds included for regional occupational center and program growth in Item 6100-102-001 of the Budget Act for the 1985–86 fiscal year to Section A of the State School Fund for purposes of funding the adjustments authorized pursuant to Section 52324.6 of the Education Code commencing with the 1985–86 fiscal year. It is the intent of the Legislature that funding for subsequent fiscal years be included in the annual Budget Act.

(b) Funding for purposes of Section 52324.6 shall be limited to five hundred forty thousand dollars ($540,000) in the 1985–86 fiscal year. If total claims exceed this amount, the difference shall be subtracted, on a pro rata basis, from the total entitlement computed under Section 52324.6 for each necessary small regional occupational program.

(c) Funds from Item 6100-102-001 of the Budget Act for the 1985–86 fiscal year remaining after reappropriation pursuant to this section, together with funds from paragraph (6) of subdivision (a) of Item 6100-226-001 of the Budget Act for the 1985–86 fiscal year, shall be deemed to fully fund all entitlements for the 1985–86 fiscal year for regional occupational centers and programs as of the effective date of this section, and a deficiency in these programs shall not be created by making this reappropriation.

SEC. 3. Funds appropriated for the purposes of this act shall not be included within "the total amount of money allocated for public education in California," as that term is used in Section 8880.1 of the Government Code, as added by the California State Lottery Act of 1984.

CHAPTER 1539

An act to amend and repeal Sections 6012.2 and 6276.1 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

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

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

SECTION 1. Section 6012.2 of the Revenue and Taxation Code, as added by Section 2 of Chapter 1591 of the Statutes of 1982, is repealed.

SEC. 2. Section 6012.2 of the Revenue and Taxation Code, as amended by Section 1 of Chapter 1707 of the Statutes of 1984, is amended to read:

6012.2. (a) For purposes of this part, "gross receipts" from the sale of a used mobilehome, as defined in Section 18014 of the Health and Safety Code, and the "sales price" of a used mobilehome, sold or stored, used, or otherwise consumed in this state shall be based on the current value of the used mobilehome as specified by a recognized value guide, whenever a registered or legal owner sells a used mobilehome through a person licensed under the Health and Safety Code as a dealer and not on the dealer's own account or through a licensed real estate broker acting pursuant to Section 10131.6 of the Business and Professions Code, or whenever a purchaser of a used mobilehome is required to pay the use tax to the Department of Housing and Community Development. If the value guide does not specify the model or manufacturer of a used mobilehome, the value of the used mobilehome shall be established by reference to the highest value in the value guide according to age and size or the actual sales price, whichever is less. If the actual sales price of a used mobilehome is less than the current value specified in the value guide, the "sales price" and "gross receipts" shall be based on the actual sales price of the mobilehome as evidenced by purchase documents. The State Board of Equalization shall approve the value guides for use within this state through regulation.

(b) For the purposes of this part, "gross receipts" from the sale of a mobilehome, whether new or used, shall exclude the amount of separately stated escrow fees on the sale of such mobilehome.

(c) For the purposes of this section, the "actual sales price" means the total contract price, including, but not limited to, the value of the mobilehome, in place location, awning, skirting, carport, patio, landscaping, shrubs, unattached furnishings, or other items not part of the mobilehome, and documentation fees.

SEC. 3. Section 6276.1 of the Revenue and Taxation Code, as added by Section 4 of Chapter 1591 of the Statutes of 1982, is repealed.

SEC. 4. Section 6276.1 of the Revenue and Taxation Code, as amended by Section 2 of Chapter 932 of the Statutes of 1984, is amended to read:

6276.1. (a) For purposes of Section 6276, "sales price" of a used mobilehome, as defined in Section 18014 of the Health and Safety Code shall be based on the current value of the used mobilehome as specified by a recognized value guide. If the value guide does not specify the model or manufacturer of a used mobilehome the value of the used mobilehome shall be established by reference to the highest value in the value guide according to age and size or the actual sales price, whichever is less. If the actual sales price of a used mobilehome is less than the current value specified in the value guide, the "sales price" shall be based on the actual sales price of the mobilehome as evidenced by the purchase documents. The State Board of Equalization shall approve the value guides for use within this state through regulation.

(b) For purposes of Section 6276, "sales price" of a mobilehome, whether new or used, shall exclude the amount of separately stated escrow fees on the sale of the mobilehome.

(c) For the purposes of this section, the "actual sales price" means the total contract price, including, but not limited to, the value of the mobilehome, its in place location value, awning, skirting, carport, patio, landscaping, shrubs, unattached furnishings, or other items not part of the mobilehome, and documentation fees.

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

SEC. 6. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act shall become operative on the first day of the first calendar quarter commencing more than 90 days after the effective date of this act.

CHAPTER 1540

An act to add Section 2549 to the Streets and Highways Code, relating to transportation.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 2549 is added to the Streets and Highways Code, to read:

2549. (a) Any city, county, transit operator, or the department may submit an application to the department for an advance of funds

for the purchase of abandoned railroad rights-of-way pursuant to Section 99317 of the Public Utilities Code. The department shall evaluate the applications in accordance with criteria and procedures adopted by the commission and shall submit the applications and its recommendations thereon to the commission not later than February 1 of each year.

(b) The commission shall adopt criteria and procedures for the evaluation of applications by the department. The criteria shall include, but not be limited to all of the following:

(1) The viability of the right-of-way as a transit corridor.

(2) The extent of local financial participation in the acquisition.

(3) The degree to which the unacquired right-of-way is jeopardized by encroaching development.

(c) The commission shall annually adopt a priority list for the advance of funds available for the purpose of this section. The commission shall establish and forward to all applicants a preliminary list at least 30 days prior to the date of a commission hearing on the list. The commission shall adopt the priority list, as proposed or as amended, at a subsequent commission hearing following the initial hearing. The commission shall advance funds available for the purposes of this section in accordance with the adopted priority list.

(d) Any advance of funds pursuant to this section shall be repaid within a three-year period and shall be repaid with interest at a rate equal the interest rate earned on moneys in the Pooled Money Investment Fund.

CHAPTER 1541

An act to add Section 847 to the Civil Code, relating to liability.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 847 is added to the Civil Code, to read:

847. (a) An owner, including, but not limited to, a public entity, as defined in Section 811.2 of the Government Code, of any estate or any other interest in real property, whether possessory or nonpossessory, shall not be liable to any person for any injury or death that occurs upon that property during the course of or after the commission of any of the felonies set forth in subdivision (b) by the injured or deceased person.

(b) The felonies to which the provisions of this section apply are the following: (1) Murder or voluntary manslaughter; (2) mayhem; (3) rape; (4) sodomy by force, violence, duress, menace, or threat of great bodily harm; (5) oral copulation by force, violence, duress, menace, or threat of great bodily harm; (6) lewd acts on a child

under the age of 14 years; (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, or any felony in which the defendant uses a firearm; (9) attempted murder; (10) assault with intent to commit rape or robbery; (11) assault with a deadly weapon or instrument on a peace officer; (12) assault by a life prisoner on a noninmate; (13) assault with a deadly weapon by an inmate; (14) arson; (15) exploding a destructive device or any explosive with intent to injure; (16) exploding a destructive device or any explosive causing great bodily injury; (17) exploding a destructive device or any explosive with intent to murder; (18) burglary; (19) robbery; (20) kidnapping; (21) taking of a hostage by an inmate of a state prison; (22) any felony in which the defendant personally used a dangerous or deadly weapon; (23) selling, furnishing, administering, or providing heroin, cocaine, or phencyclidine (PCP) to a minor; (24) grand theft as defined in Sections 487 and 487a of the Penal Code; and (25) any attempt to commit a crime listed in this subdivision other than an assault.

(c) The limitation on liability conferred by this section arises at the moment the injured or deceased person commences the felony or attempted felony and extends to the moment the injured or deceased person is no longer upon the property.

(d) The limitation on liability conferred by this section applies only when the injured or deceased person's conduct in furtherance of the commission of a felony specified in subdivision (b) proximately or legally causes the injury or death.

(e) The limitation on liability conferred by this section arises only upon the charge of a felony listed in subdivision (b) and the subsequent conviction of that felony or a lesser included felony or misdemeanor arising from a charge of a felony listed in subdivision (b). During the pendency of any such criminal action, a civil action alleging this liability shall be abated and the statute of limitations on the civil cause of action shall be tolled.

(f) This section does not limit the liability of an owner or an owner's agent which otherwise exists for willful, wanton, or criminal conduct, or for willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity.

(g) The limitation on liability provided by this section shall be in addition to any other available defense.

CHAPTER 1542

An act to amend Section 654.2 of the Business and Professions Code, relating to health.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 654.2 of the Business and Professions Code is amended to read:

654.2. (a) It is unlawful for any person licensed under this division or under any initiative act referred to in this division to charge, bill, or otherwise solicit payment from a patient on behalf of, or refer a patient to, an organization in which the licensee, or the licensee's immediate family, has a significant beneficial interest, unless the licensee first discloses in writing to the patient that there is such an interest and advises the patient that the patient may choose any organization for the purpose of obtaining the services ordered or requested by the licensee.

(b) The disclosure requirements of subdivision (a) may be met by posting a conspicuous sign in an area which is likely to be seen by all patients who use the facility or by providing those patients with a written disclosure statement. Where referrals, billings, or other solicitations are between licensees who contract with multispecialty clinics pursuant to subdivision (l) of Section 1206 of the Health and Safety Code or who conduct their practice as members of the same professional corporation or partnership, and the services are rendered on the same physical premises, or under the same professional corporation or partnership name, the requirements of subdivision (a) may be met by posting a conspicuous disclosure statement at a single location which is a common area or registration area or by providing those patients with a written disclosure statement.

(c) For the purposes of this section, the following terms have the following meanings:

(1) "Immediate family" includes the spouse and children of the licensee, the parents of the licensee and licensee's spouse, and the spouses of the children of the licensee.

(2) "Significant beneficial interest" means any financial interest that is equal to or greater than the lesser of the following:

(A) Five percent of the whole.

(B) Five thousand dollars ($5,000).

(d) This section shall not apply to a "significant beneficial interest" which is limited to ownership of a building where the space is leased to the organization at the prevailing rate under a straight lease agreement or to any interest held in publicly traded stocks.

(e) (1) This section does not prohibit the acceptance of evaluation specimens for proficiency testing or referral of specimens or assignment from one clinical laboratory to another clinical laboratory, either licensed or exempt under this chapter, if the report indicates clearly the name of the laboratory performing the test.

(2) This section shall not apply to relationships governed by other provisions of this article nor is this section to be construed as permitting relationships or interests that are prohibited by existing law on the effective date of this section.

(3) The disclosure requirements of this section shall not be required to be given to any patient, customer, or his or her representative, if the licensee, organization, or entity is providing or arranging for health care services pursuant to a prepaid capitated contract with the State Department of Health Services.

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 1543

An act to add Section 1797.186 to the Health and Safety Code, relating to medical treatment.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 1797.186 is added to the Health and Safety Code, to read:

1797.186. All persons described in Sections 1797.170, 1797.171, 1797.172, 1797.182, and 1797.183, whether volunteers, partly paid, or fully paid, shall be entitled to prophylactic medical treatment to prevent the onset of disease, provided that the person demonstrates that he or she was exposed, while in the service of the department or unit, to a contagious disease, as listed in Section 2500 of Title 17 of the California Administrative Code, while performing first aid or cardiopulmonary resuscitation services to any person.

Medical treatment under this section shall not affect the provisions of Division 4 (commencing with Section 3200) or Division 5 (commencing with Section 6300) of the Labor Code or the person's right to make a claim for work-related injuries, at the time the contagious disease manifests itself.

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 1544

An act to amend Sections 42247.2 and 42249.2 of, and to add and repeal Chapter 8 (commencing with Section 52200) of Part 28 of, the Education Code, relating to education, and declaring the urgency thereof, to take effect immediately.

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

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

SECTION 1. Section 42247.2 of the Education Code is amended 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 in which the desegregation plan submitted by the district pursuant to Section 42247.1 has been implemented.

SEC. 2. Section 42249.2 of the Education Code is amended 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 that 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. Any such district shall be eligible for reimbursement for the 1985–86 fiscal year and any fiscal year thereafter on the basis of audited desegregation costs incurred during the 1984–85 fiscal year as if approved by the Controller pursuant to Section 42247.

(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. 3. Chapter 8 (commencing with Section 52200) is added to Part 28 of the Education Code, to read:

CHAPTER 8. GIFTED AND TALENTED PUPIL PROGRAM

52200. (a) The Legislature finds and declares that it is in the public interest to support unique opportunities for high-achieving and under-achieving pupils in the public elementary and secondary schools of California who are identified as gifted and talented. The Legislature further declares its intent that special efforts be made to ensure that pupils from economically disadvantaged and varying cultural backgrounds be provided with full participation in these unique opportunities.

(b) In addition, it is the intent of the Legislature to improve the quality of existing programs for gifted and talented pupils and to provide for experimentation in the delivery of the programs, including a variety of programmatic approaches and cost levels. It is also the intent of the Legislature to provide for the identification of gifted and talented pupils by individual school districts in a variety of ways so long as this does not serve to diminish the quality of programs for individual pupils.

(c) The Legislature is committed to the belief that programs for gifted and talented pupils should include all of the following:

(1) Differentiated opportunities for learning commensurate with the gifted and talented individual's particular abilities and talents.

(2) Alternative learning environments in which gifted and talented individuals can acquire skills and understanding at advanced ideological and creative levels commensurate with their potentials.

(3) Elements that help the gifted and talented develop sensitivity and responsibility to others.

(4) Elements that help to develop a commitment in gifted and talented individuals to constructive ethical standards.

(5) Elements that assist the gifted and talented to develop selfgenerating problem-solving abilities to expand each pupil's awareness of choices for satisfying contributions in his or her environment.

(6) Elements that help gifted and talented pupils develop realistic, healthy selfconcepts.

52201. (a) "Gifted and talented pupil," as used in this chapter, means a pupil enrolled in a public elementary or secondary school of this state who is identified as possessing demonstrated or potential abilities that give evidence of high performance capability as defined pursuant to Section 52202.

(b) "Program" means an appropriately differentiated curriculum provided by a district for gifted and talented pupils which meets the standards established pursuant to this chapter, and also includes the identification of these pupils.

(c) "Participating pupil" means a pupil identified as a gifted and talented pupil who takes part in a program for at least one semester of a school year.

52202. For the purposes of this chapter, the demonstrated or

potential abilities that give evidence of high performance capability shall be defined by each school district governing board in accordance with regulations established by the State Board of Education. Each district shall use one or more of the following categories in defining the capability: intellectual, creative, specific academic, or leadership ability; high achievement; performing and visual arts talent; or any other criteria which meets the standards set forth by the State Board of Education pursuant to Section 52203. Each governing board shall also consider identifying as gifted or talented any pupil who has transferred from a district in which he or she was identified as a gifted and talented pupil.

52203. The State Board of Education shall issue regulations by April 1, 1980, governing the following areas:

(a) Procedures which school district governing boards shall use in identifying gifted and talented pupils who are eligible for the program and in providing programs pursuant to this chapter.

(b) Definitions of special day classes, part-time grouping, enrichment activities, cluster grouping, independent study, acceleration, postsecondary education opportunities and other programs which the State Board of Education deems appropriate.

(c) Establishment of allowable indirect cost expenditures which may be funded by gifted and talented program funds.

(d) Other areas which the board deems necessary to implement fully the intent and provisions of this chapter.

This section shall become operative on January 1, 1980.

52204. Any school district governing board which provided a mentally gifted minor program in the 1978–79 school year may elect to provide a program for gifted and talented pupils pursuant to this chapter, subject to the provisions of Section 52211. If a governing board elects to provide such a program, it shall submit a description of the proposed program and the processes by which the qualifications of teachers and supervisory personnel shall be determined for the approval of the State Board of Education.

52205. The Superintendent of Public Instruction shall:

(a) Apportion funds pursuant to this chapter to each district whose application to offer programs pursuant to this chapter has been approved by the State Board of Education according to the provisions of this chapter and regulations adopted by the board.

(b) Assist local governing boards, upon their request, to design, implement, and evaluate programs funded under this chapter.

(c) Ensure that the funds authorized for programs pursuant to this chapter are expended consistent with the provisions of this chapter.

(d) Encourage the development of locally designed, innovative programs for gifted and talented pupils.

(e) Assist local districts in the development and implementation of staff development programs related to gifted and talented pupils.

(f) Give priority in technical assistance to those districts receiving the greatest total increase in funds.

52206. School district governing boards of districts which provide programs pursuant to this chapter may establish programs for gifted and talented pupils consisting of special day classes, part-time grouping, enrichment activities, cluster grouping, independent study, acceleration, postsecondary education opportunities, and other program approaches as proposed by the governing board and consistent with the regulations of the State Board of Education. If the district establishes these programs, the district shall provide them to identified pupils for an amount of time each week which shall average a minimum of one class equivalent to 200 minutes per week for 30 weeks of the school year. The time requirements may be waived upon approval of the State Board of Education.

Each participating governing board shall determine the most appropriate curricular components for participating students within its district.

For all programs for gifted and talented pupils, including programs for pupils with high creative capabilities and talents in the performing and visual arts, each participating governing board shall concentrate part of its curriculum on providing participating pupils with an academic component and, where appropriate, with instruction in basic skills.

52207. Each governing board, providing programs pursuant to this chapter, subject to any terms and conditions as may be agreed upon, may contract with another school district to furnish programs or may contract to educate pupils living in other districts.

The county superintendent may, with the approval of the county board of education and the governing board of the school district involved, provide programs pursuant to the provisions of this chapter, and transportation therefor, for gifted and talented pupils who reside in any school district. For these purposes, the terms "school district" and "governing board of a school district," as used in this chapter, shall be deemed to include the county superintendent of schools.

52208. Each school district governing board of a district providing programs pursuant to this chapter shall: (1) conduct an annual assessment of the program; and (2) develop procedures that assure the ongoing participation of parents of gifted and talented pupils in the planning and evaluation of programs funded pursuant to this chapter.

52209. The governing board of any school district which provides a program for gifted and talented pupils pursuant to this chapter may:

(a) Conduct programs, seminars, and classes for gifted and talented pupils within or without the boundaries of the school district, and for that purpose employ instructors, supervisors, and other personnel and provide necessary equipment and supplies.

(b) Transport or arrange for transportation of pupils to or from educational institutions where regularly scheduled programs and classes are being conducted.

Attendance of pupils at these programs, seminars, and classes shall be included in computing the average daily attendance of the district for the purposes of apportionments from the State School Fund.

Moneys from this program shall not be used for educational field trips. This limitation may be waived by the Superintendent of Public Instruction.

No district may exceed expenditure of state funds of two hundred fifty dollars ($250) per pupil for program services pursuant to this chapter except in extraordinary circumstances and with the specific approval of the Superintendent of Public Instruction. This amount shall increase at the rate of 6 percent per year.

Funds provided in support of this chapter shall be used solely for the purposes described herein. Allowances provided in any fiscal year but not expended in that year may be expended in subsequent fiscal years.

52210. The governing board of a school district, in providing programs pursuant to this chapter, may enter into agreements with a county superintendent of schools to conduct programs for gifted and talented pupils enrolled in the schools of the district.

52211. The Superintendent of Public Instruction shall, beginning in the 1980–81 school year, apportion funds to school districts pursuant to the provisions of this section. However, if any eligible school district decides not to participate in the program, the State Board of Education shall have the authority to select a replacement district from among the remaining districts in the state.

The Superintendent of Public Instruction shall apportion funds to each participating district in the following manner:

(a) Districts which have 1 to 10 participating pupils shall receive seventy-five dollars ($75) per semester for each participating pupil.

(b) Districts which have 11 to 25 participating pupils shall receive sixty-eight dollars ($68) per semester for each participating pupil.

(c) Districts which have 26 to 50 pupils shall receive fifty-eight dollars ($58) per semester for each participating pupil.

(d) All other participating districts shall, for each unit of average daily attendance in the district, receive an amount to be computed in the following manner:

(1) (A) For the fiscal year 1980–81, for each participating district, the Superintendent of Public Instruction shall compute the 1978–79 total amount apportioned for purposes of operating the mentally gifted minors program divided by the 1978–79 average daily attendance in that district.

(B) For the fiscal year 1981–82 and each succeeding fiscal year, for each participating district, the Superintendent of Public Instruction shall compute the previous year's total amount apportioned for purposes of operating the gifted and talented pupils' program divided by the prior year's average daily attendance in that district.

(2) Districts for which the amount computed in paragraph (1) exceeds five dollars and forty-three cents ($5.43) shall receive 0.95 times the amount computed in paragraph (1).

(3) Districts for which the amount computed in paragraph (1) exceeds the amount computed in subdivision (e) for the prior fiscal year, but is less than or equal to five dollars and forty-three cents ($5.43), shall receive the greater of (A) the amount computed in paragraph (1) or (B) the amount computed in subdivision (e) for the current fiscal year.

(4) Districts for which the amount computed in paragraph (1) is less than or equal to the amount computed in subdivision (e) for the prior fiscal year shall, for each fiscal year receive the greater of (A) one-half of the amount computed in subdivision (e) for the prior fiscal year or (B) 1.7 times the amount computed in paragraph (1) except that this amount shall not exceed the amount computed in subdivision (e) for the current fiscal year.

(e) For the 1980–81 fiscal year, the amount for the purpose of computation in paragraphs (3) and (4) of subdivision (d) and subdivision (g) shall be the total of the program apportionments in the 1978–79 fiscal year for mentally gifted minors divided by the total average daily attendance in those districts. For 1981–82 and each successive fiscal year, the amount for the purpose of computation in paragraphs (3) and (4) of subdivision (d) and subdivision (g) shall be the total of the apportionments in the prior fiscal year for gifted and talented pupils divided by the total average daily attendance in those districts.

(f) In the 1981–82 fiscal year, the amounts in subdivisions (a), (b), and (c) shall be increased by 7 percent per year. In the 1982–83 fiscal year, and each fiscal year thereafter, the amounts in subdivisions (a), (b), and (c) shall be increased by 6 percent.

(g) Districts which are newly admitted to the program shall receive, in the first year of admission, an amount equal to one-half of the amount computed in subdivision (e) times the average daily attendance of that district. In the second and successive years, each of these districts shall receive the amount computed in subdivision (e) times the average daily attendance of that district.

If the sum appropriated for purposes of this section is not sufficient to make the allowances specified by this section the allowances shall be reduced proportionately. If the sum apportioned for purposes of this section is more than sufficient to make the allowances specified by this section the allowances shall be increased proportionately.

52212. Each applicant school district shall submit an application for approval for a proposed program for gifted and talented pupils to the State Board of Education. The application shall be submitted in the form and manner prescribed by the Superintendent of Public Instruction. The application shall include budget information including separate data on identification and program costs, and any other data required by the Superintendent of Public Instruction effectively to administer and evaluate the program.

Each participating governing board shall maintain auditable records.

Each applicant school district shall designate in its application to

the State Board of Education, a person with responsibility for the development, identification procedure, and implementation of the local program for gifted and talented pupils, fiscal management, and for the collection of auditable records for the independent evaluation.

In order to ensure compliance with this chapter during the pilot period and to provide information sufficient to later evaluate the wide variety of district programs as provided for by Section 52200, applications for local district programs shall be developed by the State Department of Education and made available to districts no later than April 1, 1980. The application shall not be part of the consolidated application.

This section shall become operative on January 1, 1980.

52213. The State Department of Education, with the approval of the Legislative Analyst and the Department of Finance, shall contract for an independent evaluation of programs for gifted and talented pupils established pursuant to this chapter. The State Department of Education shall submit to the Legislative Analyst and the Department of Finance by February 15, 1980, a finalized request for proposals which specifies the scope, work plan, and other necessary information for potential bidders on the independent contract. In conducting the evaluation, the contractor shall examine the benefits, costs, consequences, and impact of the gifted and talented program and shall provide information on these issues and make appropriate policy recommendations in a report to the Legislature on January 5, 1984.

This section shall become operative on January 1, 1980.

52213.5. Of the amount available for expenditure for the purposes of this chapter by subdivision (e) of Section 41301 or any equivalent provision of law, up to a total of two hundred twenty-five thousand dollars ($225,000) may be used for the evaluation of programs prescribed by this chapter for the 1980–81, 1981–82, 1982–83, and 1983–84 fiscal years.

52214. This chapter shall remain in effect only until June 30, 1988, and on that date is repealed, unless a later enacted statute, which is chaptered before June 30, 1988, deletes or extends that date.

SEC. 4. It is the intent of the Legislature that Chapter 8 (commencing with Section 52200) of Part 28 of the Education Code, relating to the Gifted and Talented Pupil Program, be considered to have remained effective on and after July 1, 1985, without any lapse in the operation of the provisions.

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 Gifted and Talented Pupil Program in the 1985–86 school year, it is necessary that this act take effect immediately.

CHAPTER 1545

An act to add Section 7282.1 to the Welfare and Institutions Code, relating to mental health.

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

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

SECTION 1. Section 7282.1 is added to the Welfare and Institutions Code, to read:

7282.1. If a person who is or has been a recipient of services provided by the State Department of Developmental Services or the State Department of Mental Health in a state hospital, or the guardian, conservator, or personal representative of such person, brings an action or claim against a third party for an injury, disorder, or disability, which resulted in the need for care, maintenance, or treatment in a state hospital, the person or the guardian, conservator, or personal representative shall within 30 days of filing the action or claim give to the Director of Developmental Services, for hospitals under the jurisdiction of the State Department of Developmental Services, or the Director of Mental Health, for hospitals under the jurisdiction of the State Department of Mental Health, written notice of the action or claim and of the name of the court or agency in which the action or claim is to be brought. Proof of the notice shall be filed in the action or claim. For pending actions or claims filed prior to January 1, 1986, proof of the notice shall be filed by February 1, 1986.

Any judgment, award, or settlement arising out of the action or claim shall be subject to a lien in favor of the Director of Developmental Services or the Director of Mental Health, for hospitals under the jurisdiction of that department, for the cost of state hospital care and treatment furnished with respect to the subject of the action or claim, however:

(a) A lien shall not attach to that portion of a money judgment awarded for pain and suffering.

(b) A lien shall not attach if over 180 days has elapsed between the time when notice was given to the department and the time when the department has filed its lien with the court or agency in which the action or claim has been brought.

(c) A lien authorized by this section shall not be placed for services which have been paid through the state Medi-Cal program.

(d) This section shall not apply to actions or claims in which a final judgment, award, or settlement has been entered into prior to January 1, 1986.

CHAPTER 1546

An act to amend Sections 41311, 41350, 41352, 41353, 41851, 41853, 46200, 51427, 54653, 54656, 54657.5, 60248, and 62000 of, to add Sections 51873.2, 51878.5 and 54653.6 to, to repeal Section 41312 of, to repeal and add Section 56858 of, the Education Code, and to add Section 3091.5 to the Labor Code, relating to education, and making an appropriation therefor.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 41311 of the Education Code is amended to read:

41311. It is the intent of the Legislature that the Child Nutrition Program shall provide permanent financial assistance to eligible school districts, county superintendents of schools, local agencies, private schools, parochial schools, and child development programs, for implementing the school meal program. That financial assistance shall be used to reimburse the cafeteria account of school districts, county superintendents of schools, local agencies, private schools, parochial schools, and child development programs, based upon the number of qualifying meals served to students.

SEC. 2. Section 41312 of the Education Code is repealed.

SEC. 3. Section 41350 of the Education Code is amended to read:

41350. The Superintendent of Public Instruction shall make allowances for child nutrition as follows:

(a) Reimbursement of child nutrition entities, as defined by Section 49530.5, for all eligible meals, pursuant to Section 49536.

(b) Reimbursement of school districts for the difference between the current fiscal year average statewide lunch or breakfast cost for all free and reduced-price meals required by Section 49550 as determined by the Superintendent of Public Instruction and the combined total income per meal derived from pupil charges, federal funds, and state funds as provided in Article 11 (commencing with Section 49550) of Chapter 9 of Part 27 of Division 4 of this title, except that this amount shall be reduced by the district contribution, computed pursuant to Section 41351.

(c) Reimbursement of county superintendents of schools for the difference between the current fiscal year average statewide lunch or breakfast cost for all free and reduced-price meals as determined by the Superintendent of Public Instruction and the combined total income per meal derived from pupil charges, federal funds, and state funds as provided in Article 11 (commencing with Section 49550) of Chapter 9 of Part 27 of Division 4 of this title.

The combined state and federal reimbursements shall not exceed the current fiscal year average statewide lunch or breakfast cost. If

the combined pupil charges, state reimbursements, and federal reimbursements exceed the current average statewide lunch or breakfast costs, the federal funds shall be expended prior to the expenditure of any state funds.

SEC. 4. Section 41352 of the Education Code is amended to read:

41352. (a) With the exception of those who receive reimbursement for meals only from the state, the State Department of Education shall make allowances to school food authorities and child care food program sponsors for the Child Nutrition Program on a monthly basis. Program providers shall submit claims to the department within 10 calendar days of the end of each month. Claims submitted after 60 calendar days or more from the end of the period for which reimbursement is claimed shall be invalid. Within 45 calendar days of submission of a valid claim, the State Department of Education shall tender reimbursement.

(b) For sponsors of those who receive reimbursement for meals only from the state, the State Department of Education shall make allowances for the Child Nutrition Program on an annual basis. Program providers shall submit claims to the department within 10 calendar days of the end of each state fiscal year. Claims submitted after August 20 of the fiscal year immediately following the year for which reimbursement is claimed shall be invalid. Within 45 calendar days of the claim deadline, the State Department of Education shall tender reimbursement.

SEC. 5. Section 41353 of the Education Code is amended to read:

41353. From funds appropriated for child nutrition the Superintendent of Public Instruction shall make the following expenditures:

(a) Not to exceed 20 percent, for state administrative expenses.

(b) Not to exceed 80 percent, for distribution to child nutrition entities, as defined by Section 49530.5, which maintain nutrition education programs on a project approval basis pursuant to subdivision (b) of Section 49534 and for expenditure by the Department of Education; provided, however, that of such 80 percent not more than 5 percent thereof shall be used by the department for the development, implementation, supervision, and evaluation of nutrition education programs.

SEC. 6. Section 41851 of the Education Code is amended to read:

41851. (a) For the 1984–85 fiscal year and each fiscal year thereafter, from Section A of the State School Fund the Superintendent of Public Instruction shall apportion to each school district and county superintendent of schools which received a transportation allowance in the prior fiscal year, an amount computed pursuant to this section. School districts and county superintendents of schools which provide transportation services by means of a joint powers agreement, a cooperative pupil transportation program, or a consortium shall receive transportation allowances pursuant to this section.

(b) Any school district or county superintendent which certifies

to the Superintendent of Public Instruction at the end of a fiscal year that its approved transportation expenditures for that fiscal year were at least 95 percent of the state allowance received in that fiscal year for the prior fiscal year's approved transportation costs shall receive a transportation allowance for the current fiscal year equal to the amount of the transportation allowance received in the prior fiscal year, increased by the amount provided in the Budget Act.

(c) Any school district or county superintendent which certifies at the end of a fiscal year that its approved transportation expenditures for fiscal year were less than 95 percent of the state allowance received in that fiscal year for the prior fiscal year's approved transportation costs shall certify the applicable percentage and shall receive a transportation allowance for the current fiscal year equal to the certified percentage of the transportation allowance received in that fiscal year plus 5 percent, the sum increased by the amount provided in the Budget Act.

(d) For the purpose of receiving an allowance pursuant to this section, a school district, county superintendent, or joint powers agency which transfers any part of its pupil transportation service to another entity shall report to the Superintendent of Public Instruction the proportion of the costs in the fiscal year prior to the transfer that are attributable to the part of the service transferred. In determining the allowance for the fiscal years subsequent to the transfer, the Superintendent of Public Instruction, prior to the application of any cost-of-living adjustment, shall reduce the allowance of the entity transferring the service in proportion to the costs reported, and, if appropriate, increase or establish the allowance of the entity assuming the transferred service by that amount.

(e) For the 1985–86 fiscal year, and each fiscal year thereafter, for purposes of this section and Section 42238, the state allowance received in any fiscal year shall not include revisions to expenditure reports or other documents, schedules, or reports that are used in determining state apportionments pursuant to this section, submitted by a school district for any prior year apportionment, and received by the Superintendent of Public Instruction after June 30, 1985, that would result in a change in the adjustment to the district's revenue limit calculated pursuant to subdivision (a) or (b) of Section 42241.4 as those provisions read in the 1982–83 or 1983–84 fiscal year.

(f) For the 1985–86 fiscal year and each fiscal year thereafter, for purposes of this section and Section 42238, the state allowance received in any fiscal year shall not include revisions to expenditure reports or other documents, schedules, or reports that are used in determining state apportionments pursuant to this section, submitted by a school district for any prior fiscal year apportionment, and received by the Superintendent of Public Instruction after June 30, 1985, that would result in a change in the adjustment to the district's revenue limit calculated pursuant to subdivision (e) of Section 42241.

(g) For the 1985–86 fiscal year and each fiscal year thereafter, for purposes of this section, the state allowance received in any fiscal year shall not include revisions to transportation reports or other documents, schedules, or reports that are used in determining state apportionments pursuant to Article 8 (commencing with Section 56770) of Chapter 7 of Part 30, submitted by a school district or county superintendent of schools for the 1981–82, 1982–83, or 1983–84 fiscal year apportionment, and received by the Superintendent of Public Instruction after June 30, 1985, for the purpose of other than home-to-school transportation of individuals with exceptional needs as specified in their individualized education plan, that would result in an increase in the district's or county superintendent of schools' state allowance pursuant to this section.

(h) Commencing in the 1985–86 fiscal year, all revisions to prior fiscal year expenditure reports and any other documents, schedules, or reports that are used in determining state allowances pursuant to this section, submitted by a school district or county office of education for purposes of receiving apportionments pursuant to this section, and received by the Superintendent of Public Instruction after June 30, 1985, shall be accompanied by a statement signed by the independent auditor of the school district or county office of education which certifies that the revisions are corrections of errors contained in a document, schedule, or report previously submitted to the Superintendent of Public Instruction, and that the information contained in the revised document, schedule, or report is true and accurate.

SEC. 7. Section 41853 of the Education Code is amended to read:

41853. If a school district or county superintendent of schools decides to discontinue its transportation services, any unencumbered funds remaining in the restricted home-to-school transportation account after transportation services are discontinued shall be transferred to the general fund of the district or county superintendent.

In the fiscal year in which the funds are transferred, the Superintendent of Public Instruction shall reduce the state apportionment pursuant to Section 2558 or 42238 to the district or county superintendent by the amount of the funds transferred from the restricted home-to-school transportation account to the general fund of the district or county superintendent.

SEC. 8. Section 46200 of the Education Code is amended to read:

46200. (a) In the 1984–85 fiscal year, for each school district 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 apportion thirty-five dollars ($35) per unit of average daily attendance, exclusive of adult average daily attendance, the average daily attendance of pupils while participating in regional occupation centers or programs, and average daily attendance for pupils attending summer school. A year-round school shall be deemed to be in compliance with the

180-day requirement if it certifies to the Superintendent of Public Instruction that it is a year-round school and maintains its school for five more days, or the equivalent thereof, than maintained in the 1982–83 fiscal year not to exceed 180 days. Each school district which received an apportionment pursuant to this subdivision in the 1984–85 fiscal year shall add thirty-five dollars ($35) to the district's base revenue limit per unit of average daily attendance for the 1985–86 fiscal year.

(b) For any school district which received an apportionment pursuant to subdivision (a) and which offers less than 180 days of instruction in the 1985–86 fiscal year or any fiscal year thereafter, and which does not provide the minimum number of instructional minutes specified in subdivision (a) of Section 46201 for that fiscal year, the Superintendent of Public Instruction shall reduce the base revenue limit 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 1984–85 fiscal year.

SEC. 9. Section 51427 of the Education Code is amended to read:

51427. Pursuant to Section 16370 of the Government Code, there is hereby authorized in the State Treasury a Special Deposit Fund Account, which shall consist of fees that may be prescribed by Sections 51421 and 51423. All of the fees collected are hereby appropriated without regard to fiscal year for the support of the Department of Education to be used pursuant to this article.

SEC. 9.5. Section 51873.2 is added to the Education Code, to read:

51873.2. To the extent funds are available, the Educational Technology Committee may contract for additional staff services, with funds expended not to exceed one-half of one percent of the funds appropriated in the annual budget bill for educational technology local assistance for allocation by the Director of Finance.

SEC. 10. Section 51878.5 is added to the Education Code, to read:

51878.5. Pursuant to Section 16370 of the Government Code, there is hereby authorized in the State Treasury a Special Deposit Fund Account, which shall consist of moneys collected from the sale of educational computer software to local educational agencies under this article. All of the moneys collected are hereby appropriated without regard to fiscal year for the support of the Department of Education to be used for the purchase and reproduction of new computer education materials.

SEC. 11. Section 54653 of the Education Code is amended to read:

54653. Beginning with the 1984–85 fiscal year, and each fiscal year thereafter, the State Board of Education shall compute the change in the performance of each school as measured by the change in the composite rating from the prior year. Except as otherwise provided in Sections 54653.5 and 54653.6, a school which demonstrates an improved performance from the prior year shall earn incentive funding in the fiscal year in which the performance improvement occurred. The State Board of Education shall compute the incentive

funding earned by each school pursuant to this section as follows:

(a) For each school which demonstrates an improved performance, multiply the increase in the composite score of the school by the number of pupils in that school who took the test during the fiscal year in which the increase occurred.

(b) Add the individual products computed pursuant to subdivision (a) to determine the total statewide increase in school performance.

(c) Divide the product computed for the individual school pursuant to subdivision (a) by the total statewide increase in school performance computed pursuant to subdivision (b) to determine the individual school's proportional contribution to the statewide increase in school performance.

(d) Multiply the quotient obtained pursuant to subdivision (c) by the amount appropriated in that fiscal year for purposes of this article to determine the incentive funding earned by an individual school. In no case, shall the amount of incentive funding earned by an individual school exceed the product of the number of pupils who took the test during the fiscal year in which the increase occurred multiplied by four hundred dollars ($400).

The State Board of Education shall provide the Superintendent of Public Instruction with a list of the schools which have earned incentive funding, and the amount of that funding earned by each school. The board shall provide the governing board of each school district with a list of the schools within the district which have earned incentive funding, and the amount of that funding earned by each school.

SEC. 12. Section 54653.6 is added to the Education Code, to read:

54653.6. If a school's composite rating for the prior year is below the school's composite rating for the 1983–84 fiscal year by an amount as determined by a formula that shall be established by the State Board of Education and that shall account for the size of the school's grade 12 enrollment, then the computation of change in performance for that school shall be based on its composite rating for the 1983–84 fiscal year. The computation of incentive funding for schools subject to the provisions of this section shall be in accordance with Section 54653 based on improved performance as measured by the increase from the 1983–84 composite rating. The provisions of this section shall apply to the determination of incentive funding commencing with the 1985–86 fiscal year.

SEC. 13. Section 54656 of the Education Code is amended to read:

54656. (a) No funds allocated pursuant to Section 54654 shall be used for any of the following purposes:

(1) To pay salaries negotiated pursuant to Chapter 10.7 (commencing with Section 3540) of Title 1 of Division 4 of the Government Code.

(2) To hire additional staff pursuant to employment agreements for a term of one year or more.

(b) Funds allocated pursuant to Section 54654 may be expended

without regard to fiscal year.

SEC. 14. Section 54657.5 of the Education Code is amended to read:

54657.5. In order to ensure the validity of the composite ratings of 12th grade performance used for purposes of this article, the State Department of Education shall develop procedures for the 12th grade for the proctoring of tests administered as part of the testing program by persons not employed by the school district administering the test. At least one proctor shall be present in each classroom used for the administration of the test while the test is being conducted.

The proctor assigned to each classroom shall be given the responsibility of delivering the completed test forms to the State Department of Education for scoring. The department shall elicit assistance from geographically distributed county offices of education in developing and implementing these procedures.

SEC. 15. Section 56858 of the Education Code is repealed.

SEC. 16. Section 56858 is added to the Education Code, to read:

56858. (a) The State Department of Developmental Services shall, commencing August 1, 1985, and on the first day of each month thereafter, upon submission of an invoice by the county superintendent of schools, pay to the county superintendent of schools 8 percent of the amount projected to cover the cost of hospital pupils educated in community school programs.

(b) The amount projected to cover the cost of hospital pupils educated in community school programs shall be determined according to procedures agreed by the State Department of Developmental Services and the State Department of Education.

(c) Upon completion of the fiscal year, the county superintendent of schools shall calculate the actual cost of hospital pupils educated in community schools according to procedures in subdivision (b) approved by the State Department of Developmental Services and the State Department of Education.

(d) If the calculated actual cost of educating these pupils is more or less than the total amount the county superintendent of schools has received for the fiscal year pursuant to subdivision (a), the following years' distribution shall be adjusted accordingly.

(e) The county superintendent of schools shall distribute funds to participating districts on a pro rata basis.

SEC. 17. Section 60248 of the Education Code is amended to read:

60248. School district governing boards shall use the funds apportioned pursuant to Section 60247 solely for the purchase of instructional materials, as defined in Sections 60011 to 60018, inclusive, for pupils in grades 9 to 12, inclusive. Textbooks purchased with these funds shall be adopted in accordance with Sections 60400 and 60401.

SEC. 18. Section 62000 of the Education Code is amended to read:

62000. "Sunset" and "sunset date," as used in this part, mean the date on which specific categorical programs cease to be operative

and Sections 62002, 62003, 62004, 62005, and 62005.5 govern program funding.

The following educational programs shall cease to be operative on the date specified, unless the Legislature enacts legislation to continue the program after the review prescribed in Section 62006:

(a) Sunset date of June 30, 1986:

(1) Local staff development and teacher education and computer centers.

(2) Professional development centers.

(3) Instructional materials.

(b) Sunset date of June 30, 1987:

(1) Miller-Unruh Basic Reading Act of 1965.

(2) School improvement program.

(3) Indian early childhood education.

(4) Economic impact aid.

(5) Bilingual education.

(c) Sunset date of June 30, 1988:

(1) Special education.

(2) Gifted and talented education.

(d) Sunset date of June 30, 1989:

(1) Child development and preschool programs.

(2) Adult education.

(3) Indian education centers.

(e) Sunset date of June 30, 1990:

(1) Demonstration programs in reading and mathematics.

SEC. 19. Section 3091.5 is added to the Labor Code, to read:

3091.5. Pursuant to Section 16370 of the Government Code, there is hereby authorized in the State Treasury a Special Deposit Fund Account, which shall consist of moneys collected from the sale of instructional material to persons enrolled in any apprenticeship training program under this chapter. All of the moneys collected are hereby appropriated without regard to fiscal year for the support of the Department of Education to be used for the development and production of apprenticeship instructional material.

CHAPTER 1547

An act to amend Sections 3715, 3720, and 3721 of, and to add Sections 3717.1, 3717.2, and 3720.1 to, the Labor Code, relating to workers' compensation.

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

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

SECTION 1. The Legislature finds and declares all of the following:

(a) It is necessary for the fiscal integrity of the Uninsured Employers Fund that its ability to recover from uninsured employers the benefits it pays to the employees of the uninsured employers be assured.

(b) Many uninsured employers operate in an unlawful manner in ways in addition to being uninsured.

(c) Many uninsured employers commence to conceal their assets after an application is filed against them.

(d) Many uninsured employers do not have sufficient assets to discharge their obligations.

(e) It is necessary that the Uninsured Employers Fund have the ability to secure its right of repayment from uninsured employers to prevent the loss of the assets of the uninsured employers before the Uninsured Employers Fund can obtain its recovery.

(f) It is necessary to assure that uninsured employers will be accorded due process of law in the procedures by which the Uninsured Employers Fund acquires liens on their property prior to the issuance of findings and awards.

SEC. 2. Section 3715 of the Labor Code is amended to read:

3715. (a) Any employee, except an employee as defined in subdivision (d) of Section 3351, whose employer has failed to secure the payment of compensation as required by this division, or his or her dependents in case death has ensued, may, in addition to proceeding against his or her employer by civil action in the courts as provided in Section 3706, file his or her application with the appeals board for compensation and the appeals board shall hear and determine the application for compensation in like manner as in other claims and shall make the award to the claimant as he or she would be entitled to receive if the employer had secured the payment of compensation as required, and the employer shall pay the award in the manner and amount fixed thereby or shall furnish to the appeals board a bond, in such an amount and with such sureties as the appeals board requires, to pay the employee the award in the manner and amount fixed thereby.

(b) Notwithstanding this section or any other provision of this chapter except Section 3708, any person described in subdivision (d) of Section 3351 who is (i) engaged in household domestic service who is employed by one employer for over 52 hours per week, (ii) engaged as a part-time gardener in connection with a private dwelling, if the number of hours devoted to the gardening work for any individual regularly exceeds 44 hours per month, or (iii) engaged in casual employment where the work contemplated is to be completed in not less than 10 working days, without regard to the number of men employed, and where the total labor cost of the work is not less than one hundred dollars ($100) (which amount shall not include charges other than for personal services), shall be entitled, in addition to proceeding against his or her employer by civil action

in the courts as provided in Section 3706, to file his application with the appeals board for compensation. The appeals board shall hear and determine the application for compensation in like manner as in other claims, and shall make the award to the claimant as he or she would be entitled to receive if the person's employer had secured the payment of compensation as required, and the employer shall pay the award in the manner and amount fixed thereby, or shall furnish to the appeals board a bond, in such an amount and with such sureties as the appeals board requires, to pay the employee the award in the manner and amount fixed thereby.

It is the intent of the Legislature that the amendments to this section by Chapter 17 of the Statutes of 1977, make no change in the law as it applied to those types of employees covered by this subdivision prior to the effective date of Chapter 1263 of the 1975 Regular Session.

(c) In any claim in which it is alleged that the employer has failed to secure the payment of compensation, the director, only for purposes of this section and Section 3720, shall determine, on the basis of the evidence available to him or her, whether the employer was prima facie illegally uninsured. A finding that the employer was prima facie illegally uninsured shall be made when the director determines that there is sufficient evidence to constitute a prima facie case that the employer employed an employee on the date of the alleged injury and had failed to secure the payment of compensation, and that the employee was injured arising out of, and occurring in the course of, the employment.

Failure of the employer to furnish within 10 days the written statement in response to a written demand for a written statement prescribed in Section 3711, addressed to the employer at its address as shown on the official address record of the appeals board, shall constitute in itself sufficient evidence for a prima facie case that the employer failed to secure the payment of compensation.

A written denial by the insurer named in the statement furnished by the employer as prescribed in Section 3711, that the employer was so insured as claimed, or the nonexistence of a valid certificate of consent to self-insure for the time of the claimed injury, if the statement furnished by the employer claims the employer was self-insured, shall constitute in itself sufficient evidence for a prima facie case that the employer had failed to secure the payment of compensation.

The nonexistence of a record of the employer's insurance with the Workers' Compensation Insurance Rating Bureau shall constitute in itself sufficient evidence for a prima facie case that the employer failed to secure the payment of compensation.

The unrebutted written declaration under penalty of perjury by the injured employee, or applicant other than the employee, that the employee was employed by the employer at the time of the injury, and that he or she was injured in the course of his or her employment, shall constitute, in itself, sufficient evidence for a prima

facie case that the employer employed the employee at the time of the injury, and that the employee was injured arising out of, and occurring in the course of, the employment.

(d) When the director determines that an employer was prima facie illegally uninsured, the director shall mail a written notice of the determination to the employer at his or her address as shown on the official address record of the appeals board, and to any other more recent address the director may possess. The notice shall advise the employer of its right to appeal the finding, and that a lien may be placed against the employer's and any parent corporation's property, or the property of substantial shareholders of a corporate employer as defined by Section 3717.

Any employer aggrieved by a finding of the director that it was prima facie illegally uninsured may appeal the finding by filing a petition before the appeals board. The petition shall be filed within 20 days after the finding is issued. The appeals board shall hold a hearing on the petition within 20 days after the petition is filed with the appeals board. The appeals board shall have exclusive jurisdiction to determine appeals of the findings by the director, and no court of this state has jurisdiction to review, annul, or suspend any such findings or the liens created thereunder, except as provided by Article 2 (commencing with Section 5950) of Chapter 7 of Part 4 of Division 4.

The director may adopt regulations to implement and interpret the procedures provided for in this section.

SEC. 3. Section 3717.1 is added to the Labor Code, to read:

3717.1. In any claim in which an alleged uninsured employer is a corporation, the director may cause substantial shareholders and parents, as defined by Section 3717, to be joined as parties. Substantial shareholders may be served as provided in this division for service on adverse parties, or if they cannot be found with reasonable diligence, by serving the corporation. The corporation, upon this service, shall notify the shareholder of the service, and mail the served document to him or her at the shareholder's last address known to the corporation.

SEC. 4. Section 3717.2 is added to the Labor Code, to read:

3717.2. Upon request of the director, the appeals board shall make findings of whether persons are substantial shareholders or parents, as defined in Section 3717. The director may in his or her discretion proceed against substantial shareholders and parents pursuant to Section 3717 without those findings of the appeals board.

SEC. 5. Section 3720 of the Labor Code is amended to read:

3720. (a) When the appeals board or the director determines under Section 3715 or 3716 that an employer has not secured the payment of compensation as required by this division or when the director has determined that the employer is prima facie illegally uninsured, the director may file for record in the office of the county recorder in the counties where the employer's property is possibly located, a certificate of lien showing the date that the employer was

determined to be illegally uninsured or the date that the director has determined that the employer was prima facie illegally uninsured. The certificate shall show the name and address of the employer against whom it was filed, and the fact that the employer has not secured the payment of compensation as required by this division. Upon the recordation, the certificate shall constitute a valid lien in favor of the director, and shall have the same force, effect and priority as a judgment lien and shall continue for 10 years from the time of the recording of the certificate unless sooner released or otherwise discharged. A copy of the certificate shall be served upon the employer by mail, by the director. A facsimile signature of the director accompanied by the seal imprint of the department shall be sufficient for recording purposes of liens and releases or cancellations thereof considered herein. Certificates of liens may be filed in any or all counties of the state, depending upon the information the director obtains concerning the employer's assets.

(b) For purposes of this section, in the event the employer is a corporation, those persons whom either the appeals board finds are the parent or the substantial shareholders of the corporation or its parent, or whom the director finds pursuant to Section 3720.1 to be prima facie the parent or the substantial shareholders of the corporation or its parent, as defined in Section 3717, shall be deemed to be the employer, and the director may file the certificates against those persons.

(c) A person who claims to be aggrieved by the filing of a lien against the property of an uninsured employer because he or she has the same or a similar name, may apply to the director to have filed an amended certificate of lien which shows that the aggrieved applicant is not the uninsured employer which is the subject of the lien. If the director finds that the aggrieved applicant is not the same as the uninsured employer, the director shall file an amended certificate of lien with the county recorder of the county in which the aggrieved applicant has property, which shall show, by reasonably identifying information furnished by the aggrieved applicant, that the uninsured employer and the aggrieved applicant are not the same. If the director does not file the amended certificate of lien within 60 days of application therefor, the applicant may appeal the director's failure to so find by filing a petition with the appeals board, which shall make a finding as to whether the applicant and the uninsured employer are the same.

SEC. 6. Section 3720.1 is added to the Labor Code, to read:

3720.1. (a) In any claim in which the alleged uninsured employer is a corporation, for purposes of filing certificates of lien pursuant to Section 3720, the director may determine, according to the evidence available to him or her, whether a person is prima facie a parent or substantial shareholder, as defined in Section 3717. A finding that a person was prima facie a parent or substantial shareholder shall be made when the director determines that there is sufficient evidence to constitute a prima facie case that the person

was a parent or substantial shareholder.

(b) Any person aggrieved by a finding of the director that he or she was prima facie a parent or substantial shareholder may request a hearing on the finding by filing a written request for hearing with the director. The director shall hold a hearing on the matter within 20 days of the receipt of the request for hearing, and shall mail a notice of time and place of hearing to the person requesting hearing at least 10 days prior to the hearing. The hearing officer shall hear and receive evidence, and within 10 days of the hearing, file his or her findings on whether there is sufficient evidence to constitute a prima facie case that the person was a substantial shareholder or parent. The hearing officer shall serve with his or her findings a summary of evidence received and relied upon, and the reasons for the findings. A party may at his or her own expense require that the hearing proceedings be recorded and transcribed.

(c) A party aggrieved by the findings of the hearing officer may within 20 days apply for a writ of mandate to the superior court. Venue shall lie in the county in which is located the office of the director which issued the findings after the hearing.

SEC. 7. Section 3721 of the Labor Code is amended to read:

3721. The director shall provide the employer with a certificate of cancellation of lien after the employer has paid to the claimant or to the Uninsured Employers Fund the amount of the compensation or benefits which has been ordered paid to the claimant, or when the application has finally been denied after the claimant has exhausted the remedies provided by law in those cases, or when the employer has filed a bond in the amount and with such surety as the appeals board approves conditioned on the payment of all sums ordered paid to the claimant, or when, after a finding that the employer was prima facie illegally uninsured, it is finally determined that the finding was in error. The recorder shall make no charge for filing the certificates of lien, for filing amended certificates of lien, or for cancellation when liens are filed in error. Cancellation of lien certificates provided to the employer may be filed for recordation by the employer at his or her expense.

CHAPTER 1548

An act to amend Section 300 of the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 300 of the Welfare and Institutions Code is amended to read:

300. Any person under the age of 18 years who comes within any of the following descriptions is within the jurisdiction of the juvenile court which may adjudge that person to be a dependent child of the court:

(a) Who is in need of proper and effective parental care or control and has no parent or guardian, or has no parent or guardian willing to exercise or capable of exercising care or control, or has no parent or guardian actually exercising care or control.

(b) Who is destitute, or who is not provided with the necessities of life, or who is not provided with a home or suitable place of abode.

(c) Who is physically dangerous to the public because of a mental or physical deficiency, disorder, or abnormality.

(d) Whose home is an unfit place for him or her by reason of neglect, cruelty, depravity, or physical abuse of either of his or her parents, or of his or her guardian or other person in whose custody or care he or she is.

(e) Who has been freed for adoption from one or both parents for 12 months by either relinquishment or termination of parental rights and for whom an interlocutory decree has not been granted pursuant to Section 224n of the Civil Code or an adoption petition has not been granted.

(f) It is the intention of the Legislature in enacting the amendments to subdivision (a) enacted at the 1985–86 Regular Session, to assure that courts, in making a determination pursuant to subdivision (a) shall not focus upon the fact that a parent has a physical disability. The Legislature declares that a physical disability, such as blindness or deafness, is no bar to the raising of happy and well-adjusted children and that a court's determination pursuant to subdivision (a) should center upon whether a parent's disability prevents him or her from exercising care and control.

CHAPTER 1549

An act to amend Sections 69894.1, 73643, 73643.1, 73648, 73953, 73958, 74343, 74343.1, 74350, 74357, 74364, 74370, 74374, 74705, and 74708 of, and to add Sections 69907, 73641.1, 73951.1, 74341.1, 74741.1, and 74782.1 to, the Government Code, relating to courts.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 69894.1 of the Government Code is amended to read:

69894.1. In the County of Los Angeles a majority of the judges of

the superior court may appoint the following officers and employees whose salaries shall be:

Number	Title	Schedule
1	Accountant	51L
2	Accounting Technician	41E
2	Administrative Assistant I	45D[2]
1	Administrative Assistant II	55A
21	Administrative Judicial Secretary	49B
5	Administrative Secretary	46B
1	Arbitration Administrator	59B
1	Assistant Criminal Courts Coordinator	59B
1	Assistant Director, Juror Services	67E
1	Assistant Head, Office Services	49B
1	Assistant Juvenile Courts Coordinator	59B
1	Assistant Supervising Counselor, Mental Health	64K
1	Assistant Supervising Juvenile Traffic Hearing Officer	66E
1	Assistant Supervising Probate Attorney (N.W.)	83H
1	Assistant to the Executive Officer	70E
2	Chief Clerk	51K
1	Chief, Personnel Services	70F
9	Child Custody Investigator	58H
1	Civil Courts Coordinator	69F
38	Court Attendant	44H
51	Court Commissioner	
263	Court Reporter	67H
1	Court Statistician	52E
1	Criminal Courts Coordinator	69F
1	Director, Administrative Services	74F
1	Director, Court Reporter and Interpreter Services	70F
1	Director, Juror Services	74F
1	Director, Management Systems	74F
1	Director, Mediation and Conciliation Services	74F
1	Director, Recognizance Services	69L
1	Duplicating and Mail Unit Supervisor	41H
1	Executive Assistant	64E
1	Executive Officer/Jury Commissioner	E58

1	Finance Officer	64E
1	Graphic Arts Aide	40E
1	Head, Child Custody Investigations	66G
1	Head, Court Attendant Services	56B
1	Head, Management Audits	69L
1	Head, Office Services	56L
1	Head, Property Services	57J
29	Interpreter	41E
46	Investigator (N.X.)	54H
3	Investigator Aide	44A
20	Judicial Secretary	42A
1	Jury Qualification Supervisor	51K
1	Juvenile Courts Coordinator	69F
21	Law Clerk	57B
5	Legal Research Assistant	44F
1	Light Vehicle Driver	34B
1	Management Secretary	48B
3	Office Assistant Trainee	28G
71	Office Assistant I	32G
68	Office Assistant II	36G
32	Office Assistant III	38G
7	Office Assistant IV	40G
7	Offset Duplicator Operator	37B
1	Payroll Records Supervisor	47A
1	Personnel Assistant	40E
1	Principal Counselor	64K
2	Principal Family Counselor	66J
2	Principal Program Analyst	66F
20	Probate Attorney (N.W.)	79F
1	Probate Commissioner	88J
2	Procurement Assistant	43F
1	Program Analyst	56F
3	Program Specialist	53B
1	Project Manager	63E
5	Property Custodian-Auditor	39F
1	Psychiatric Physician	FD
		212.28
7	Referee	
1	Research Attorney (N.W.)	73F
14	Secretary I	40B
8	Secretary II	44B
1	Secretary to Executive Officer	56B
1	Secretary to Presiding Judge	60B
1	Senior Child Custody Investigator	60E
12	Senior Counselor	60G
3	Senior Court Attendant	48H
2	Senior Departmental Personnel	

	Technician	60F
17	Senior Family Counselor	64J
4	Senior Investigator, Own Recognizance	63B
32	Senior Judicial Secretary	45B
25	Senior Juvenile Traffic Hearing Officer	62D
8	Senior Office Assistant I	42G
4	Senior Office Assistant II	46D
1	Senior Offset Duplicator Operator	41B
2	Senior Program Analyst	60F
1	Senior Property Custodian-Auditor	45E
1	Senior Referee	
1	Special Assistant	67E
1	Staff Assistant	46E
1	Supervising Counselor, Mental Health	74F
1	Supervising Juvenile Traffic Hearing Officer	71F
2	Supervising Law Clerk	59B
1	Supply Clerk	39A
250	*Volunteer, W/O Compensation*	

Whenever a reference to numbered salary schedules and notes is made in this section, those found in the Los Angeles County Code shall apply. Whenever the compensation of superior court judges is adjusted, the flat-rate salaries for court commissioners, senior referees and referees shall be adjusted to maintain the salary relationship of 85 percent of the annual compensation of superior court judges.

Reduction of the schedule applicable to a class by reason of the adoption of this salary plan or subsequent reclassification of position for organizational purposes shall not result in a lower salary rate to incumbents of such positions. The court is authorized to regulate by rule the status of employees so affected.

N.W.—Pursuant to the Los Angeles County Code, employees employed in this position shall be compensated on a six-step salary range, the sixth step being the fifth step of the salary schedule which is two standard salary schedules above the indicated schedule number. The rate or rates established by this provision constitutes a base rate.

N.X.—As defined in Los Angeles County Code Section 6.28.050 with advancement to the seventh step to be granted no sooner than provided Deputy Probation Officer II under Los Angeles County Code Section 6.08.010 (J).

All personnel appointed pursuant to this article shall serve at the pleasure of the court and may at any time be removed by the court

in its discretion.

SEC. 1.5. Section 69907 is added to the Government Code, to read:

69907. In the County of San Diego, in addition to any other compensation and benefits, each judge of the superior court shall receive the same life insurance, accidental death and dismemberment insurance, comprehensive annual physical examinations, and dental and vision insurance as provided by the County of San Diego for the classification of chief administrative officer. Changes in these benefits shall be effective on the same date as for those for the classification of chief administrative officer.

SEC. 2. Section 73641.1 is added to the Government Code, to read:

73641.1. In addition to any other compensation and benefits, each judge of the municipal court shall receive the same life insurance, accidental death and dismemberment insurance, comprehensive annual physical examinations, and dental and vision insurance as provided by the County of San Diego for the classification of chief administrative officer. Changes in these benefits shall be effective on the same date as for those for the classification of chief administrative officer.

SEC. 3. Section 73643 of the Government Code is amended to read:

73643. The court administrator may appoint, with the approval of the judges:

(a) One assistant court administrator. The assistant court administrator shall serve as the assistant clerk of the court and shall receive a biweekly salary at a rate 18 percent below that specified for assistant court administrator of the San Diego Judicial District.

(b) One deputy clerk-administrative assistant I, II, or III as the case may be. A deputy clerk-administrative assistant I shall receive a biweekly salary at a rate equal to that specified for administrative assistant I in the classified service of San Diego County. A deputy clerk-administrative assistant II shall receive a biweekly salary at a rate equal to that specified for administrative assistant II in the classified service of San Diego County. A deputy clerk-administrative assistant III shall receive a biweekly salary at a rate equal to that specified for administrative assistant III in the classified service of San Diego County.

(c) Two deputy clerk division managers III each of whom shall receive a biweekly salary at a rate 15.2 percent higher than that specified for division manager II of the San Diego Judicial District.

(d) Five deputy clerk division managers I each of whom shall receive a biweekly salary at a rate 10 percent higher than that specified for deputy clerk V of the San Diego Judicial District.

(e) Eighteen deputy clerks IV each of whom shall receive a biweekly salary at a rate equal to that specified for superior court clerk in the classified service of San Diego County.

(f) Fifty-five deputy clerks III, II, or I, as the case may be. Each

of the deputy clerks III shall receive a biweekly salary at a rate 17 percent below that specified for deputy clerk IV. Each of the deputy clerks II shall receive a biweekly salary at a rate 14 percent below that specified for deputy clerk III. Each of the deputy clerks I shall receive a biweekly salary at a rate equal to that specified for intermediate clerk-typist in the classified service of San Diego County. At the discretion of the court administrator, appointments to deputy clerk I may be at any step within the salary range.

(g) Four deputy clerk data entry operators, each of whom shall receive a biweekly salary at a rate equal to that specified for data entry operator in the classified service of San Diego County.

(h) One deputy clerk-administrative secretary IV who shall receive a biweekly salary at a rate equal to that specified for administrative secretary IV in the classified service of San Diego County.

(i) One deputy clerk interpreter who shall receive a biweekly salary at a rate equal to that specified for deputy clerk III.

(j) Up to 10 extra help positions (hourly rate employees) to be appointed by the court administrator in the class and salary level deemed appropriate. These appointments shall be temporary for a period not to exceed six months, plus one additional period of up to six months, at the court administrator's option. Notwithstanding any other provisions of this section, the court administrator may fill these positions with personnel employed for less than 91 working days during the fiscal year on a part-time basis.

(k) Not to exceed 10 deputy clerk-court workers may be appointed by the court administrator. These appointments shall be subject to the provisions and requirements of subdivision (q) of Section 74343.

(*l*) Notwithstanding subdivision (c) of Section 73648, the court administrator may appoint up to 10 temporary extra help deputy clerk student workers I, II, or III, who shall be paid at an hourly rate and shall serve at the pleasure of the court administrator. A deputy clerk student worker I shall receive an hourly salary at a rate equal to that specified for student worker I in the unclassified service of San Diego County. A deputy clerk student worker II shall receive an hourly salary at a rate equal to that specified for student worker II in the unclassified service of San Diego County. A deputy clerk student worker III shall receive an hourly salary at a rate equal to that specified for of student worker III in the unclassified service of San Diego County.

(m) Any person occupying a position specified in subdivision (f) and performing bilingual duties as certified by the court administrator shall be paid additional compensation at the biweekly rate determined by the court administrator as specified for bilingual ability in the salary ordinance of the County of San Diego.

(n) Any person specified in subdivision (e) or (f) who is regularly assigned and certified by the court administrators as working more than 50 percent of his or her time or who is assigned more than 40

hours in any one pay period to operate a CRT machine; or to operate word processing equipment; or who is assigned to transcribe from a machine will be paid additional compensation at the biweekly rate specified for CRT machine, transcribing equipment, and word processing equipment operation in the salary ordinance of the County of San Diego. This additional compensation shall be in addition to the salary prescribed for his or her class for hours worked. For purposes of terminal pay, this premium shall not be computed on the employee's base wage rate.

(o) Any person specified in subdivision (h) shall be eligible for the additional compensation provided for in subdivision (n) if such additional compensation is authorized for the comparable county class specified in subdivision (f) of Section 74343.1.

(p) One deputy clerk-research attorney or law clerk, as the case may be. A deputy clerk research attorney shall receive a biweekly salary equal to that specified for a deputy county counsel I in the classified service of the County of San Diego. A deputy clerk law clerk shall receive a biweekly salary at a rate equal to that specified for a law clerk in the classified service of the County of San Diego.

(q) One deputy clerk administrative secretary III, II, or I, as the case may be. A deputy clerk administrative secretary III shall receive a biweekly salary at the rate specified for an administrative secretary III in the classified service of the County of San Diego. A deputy clerk administrative secretary II shall receive a biweekly salary at the rate specified for an administrative secretary II in the classified service of the County of San Diego. A deputy clerk administrative secretary I shall receive a biweekly salary at the rate specified for an administrative secretary I in the classified service of the County of San Diego.

(r) One deputy clerk departmental electronic data-processing coordinator, deputy clerk senior systems analyst, deputy clerk assistant systems analyst, or deputy clerk associate systems analyst, as the case may be. A deputy clerk departmental electronic data-processing coordinator shall receive a biweekly salary at a rate equal to that specified for departmental electronic data-processing coordinator in the classified service of San Diego County. A deputy clerk senior systems analyst shall receive a biweekly salary at a rate equal to that specified for senior systems analyst in the classified service of San Diego County. A deputy clerk assistant systems analyst shall receive a biweekly salary at a rate equal to that specified for assistant systems analyst in the classified service of San Diego County. A deputy clerk associate systems analyst shall receive a biweekly salary at a rate equal to that specified for associate systems analyst in the classified service of San Diego County.

(s) Except as provided in this section, Section 74343.1 shall apply to the attachés appointed pursuant to this section and Section 73642.

SEC. 4. Section 73643.1 of the Government Code is amended to read:

73643.1. In the event of an increase in the number of judges the

court administrator may appoint one deputy clerk IV, one deputy clerk III, one deputy clerk II, and one deputy clerk I, for each additional judgeship created.

SEC. 5. Section 73648 of the Government Code is amended to read:

73648. (a) All persons holding positions on the effective date of any amendments to this article shall continue in their respective positions without further examination or qualification and at the added compensation provided in this article, including increments for continuous prior service in such positions in the court. Any person whose title is changed as a result of any amendments to this article shall receive credit for continued service to which he or she would be entitled under his or her previous position and shall receive compensation at the step covering such length of service. Thereafter, any increments earned by additional service in grade shall take effect upon the first day of the pay period following completion of such required service.

(b) In addition to the compensation provided in this article, attachés of the municipal court shall receive, and they shall be entitled to the same vacations, holidays, sick leave, leaves of absence, bilingual pay, merit pay increases, retirement benefits and similar privileges and benefits as are now or may hereafter be provided for the employees of the County of San Diego in the comparable classes specified in subdivision (f) of Section 74343.1, including the right to participate in a retirement plan, and in any group health, accident or life insurance plan adopted by the Board of Supervisors of San Diego County, and in the tuition refund and suggestion awards programs adopted by the board For purposes of this subdivision only, the court administrator and assistant court administrator shall receive the same privileges and benefits as are received by the classification of chief probation officer of the County of San Diego. All persons holding positions in classifications of division manager I, division manager III, and deputy clerk-administrative assistant III shall receive the same privileges and benefits as are received by the classification of administrative assistant III of the classified service of the County of San Diego. The term "same privileges and benefits" for the purposes of this section shall include, but not be limited to, any benefits which are available to comparable classes in the classified service of San Diego County pursuant to the provisions of any ordinance of the County of San Diego which credit to a member of the San Diego County Employees Retirement System extra days or fractions thereof, of service for retirement purposes for each day of uncompensated sick leave and deferred compensation benefits. Changes in privileges and benefits shall be effective on the same date as those for employees of the County of San Diego in comparable classes. The majority of all the municipal court judges may adopt rules for the conduct of and personnel privileges to be afforded the attachés of the court.

(c) All attachés may be appointed, promoted, removed,

suspended or discharged for cause by the appointing authority subject in such appointment, promotion, removal, suspension or discharge to civil service provisions applicable to the classified personnel of San Diego County. Whenever a person or attaché is appointed or promoted to a position, such person or attaché shall serve a probationary period of at least six months.

(d) Notwithstanding the provisions of Section 71183, a person appointed by the court administrator from an eligible list certified by the Civil Service Commission of the County of San Diego to fill a temporary position established pursuant to Section 72150 and employed in such temporary position immediately prior to the effective date of any amendments to this article, may be appointed by such court administrator to a like permanent position in such court administrator's office without further examination, qualification or certification on a civil service eligible list; provided, that the number of such positions in the court administrator's office has been increased so as to make such temporary position a permanent position.

SEC. 6. Section 73951.1 is added to the Government Code, to read:

73951.1. In addition to any other compensation and benefits, each judge of the municipal court shall receive the same life insurance, accidental death and dismemberment insurance, comprehensive annual physical examinations, and dental and vision insurance as provided by the County of San Diego for the classification of chief administrative officer. Changes in these benefits shall be effective on the same date as for those for the classification of chief administrative officer.

SEC. 7. Section 73953 of the Government Code is amended to read:

73953. The court administrator shall appoint:

(a) One assistant court administrator at the direction of a majority of the judges of the court, who shall serve at the pleasure of the judges. The salary of the assistant clerk shall be 18 percent below that specified for assistant court administrator of the San Diego Judicial District.

(b) One deputy clerk who shall be a division manager III and who shall receive a biweekly salary at a rate 15.2 percent higher than that specified for assistant division managers II, in the San Diego Judicial District.

(c) Five deputy clerks who shall be division managers I and who shall receive a biweekly salary at a rate 10 percent higher than that specified for deputy clerk V in the San Diego Judicial District.

(d) Up to 10 extra help positions (hourly rate employees) to be appointed by the court administrator in the class and salary level deemed appropriate. These appointments shall be temporary for a period not to exceed six months, plus one additional period of up to six months, at the court administrator's option. Notwithstanding any other provisions of this section, the court administrator may fill these

positions with persons employed for less than 91 working days during a fiscal year on a part-time basis.

(e) Nineteen deputy clerks IV, each of whom shall receive the biweekly salary at a rate equal to that specified for superior court clerk in the classified service of San Diego County.

(f) Eighty deputy clerks III, II, or I, as the case may be. Each of the deputy clerks III shall receive a biweekly salary at a rate 17 percent below that specified for deputy clerk IV. Each deputy clerk II shall receive a biweekly salary at a rate 14 percent below that specified for deputy clerk III. Each of the deputy clerks I shall receive a biweekly salary at a rate equal to that specified for intermediate clerk-typist in the classified service of San Diego County. At the discretion of the court administrator, appointments to deputy clerk I class may be at any step within the salary range.

(g) Two deputy clerk data entry operators, each of whom shall receive a biweekly salary at a rate equal to that specified for data entry operators in the classified service of San Diego County. Each vacancy occuring in this class, shall cause a corresponding reduction in the number of deputy clerk data entry operators authorized; provided, that each of such vacancies shall increase by one the number of positions designated as deputy clerk II.

(h) Two deputy clerk-administrative secretaries IV, III, II, or I, as the case may be. A deputy clerk-administrative secretary IV shall receive a biweekly salary at a rate equal to that specified for administrative secretary IV in the classified service of San Diego County. A deputy clerk-administrative secretary III shall receive a biweekly salary at the rate specified for administrative secretary III in the classified service in the County of San Diego. A deputy clerk-administrative secretary II shall receive a biweekly salary at the rate specified for administrative secretary II in the classified service in the County of San Diego. A deputy clerk-administrative secretary I shall receive a biweekly salary at the rate specified for administrative secretary I in the classified service of the County of San Diego.

(i) Three deputy clerk interpreters who shall receive a biweekly salary at the rate equal to that specified for deputy clerk III.

(j) One deputy clerk-administrative assistant I, II, or III, as the case may be. The deputy clerk-administrative assistant I, II, or III, shall receive a biweekly salary at the rate equal to that specified for administrative assistant I, II, or III, respectively, in the classified service of the County of San Diego.

(k) Any person occupying a position in subdivision (f) and performing bilingual duties as certified by the court administrator shall be paid additional compensation at the biweekly rate determined by the court administrator as specified for bilingual ability in the salary ordinance of the County of San Diego.

(*l*) Any person specified in subdivisions (e) and (f) who is regularly assigned and certified by the court administrators as working more than 50 percent of his or her time or who is assigned

more than 40 hours in any one pay period to operate a CRT machine; or to operate word processing equipment; or who is assigned to transcribe from a machine shall be paid additional compensation at the biweekly rate specified for CRT machine, transcribing equipment and word processing equipment operation in the Salary Ordinance of the County of San Diego. This additional compensation shall be in addition to the salary prescribed for his or her class for hours worked. For purposes of terminal pay, this premium shall not be computed on the employee's base wage rate.

(m) Any person specified in subdivision (h) shall be eligible for the additional compensation provided for in subdivision (l) if such additional compensation is authorized for the comparable county class specified in subdivision (f) of Section 74343.1.

(n) Three deputy administrative clerks III, II, or I, as the case may be. Each deputy administrative clerk III shall receive a biweekly salary at a rate equal to that specified for deputy clerk IV. Each deputy administrative clerk II shall receive a biweekly salary at a rate equal to that specified for deputy clerk III. Each deputy administrative clerk I shall receive a biweekly salary at a rate equal to that specified for deputy clerk II. Deputy administrative clerk III, II, or I shall receive the same privileges and benefits as are received by comparable deputy clerk classes. Funding of these positions is dependent upon enactment of an additional resolution by the Board of Supervisors of the County of San Diego.

(o) Not to exceed 10 deputy clerk-court workers may be appointed by the court administrator. Such appointments shall be subject to the provisions and requirements of subdivision (q) of Section 74343.

(p) Except as provided herein, the provisions of Section 74343.1 shall apply to the attachés appointed pursuant to this section and Section 73952.

(q) One deputy clerk-senior systems analyst, associate systems analyst, or assistant systems analyst, as the case may be. A deputy clerk-senior systems analyst shall receive a biweekly salary at a rate equal to that specified for senior systems analyst in the classified service of the County of San Diego. A deputy clerk-associate systems analyst shall receive the biweekly salary at a rate equal to that specified for associate systems analyst in the classified service of the County of San Diego. A deputy clerk-assistant systems analyst shall receive biweekly salary at a rate equal to that specified for assistant systems analyst in the classified service of the County of San Diego.

(r) Notwithstanding subdivision (c) of Section 73958, the court administrator may appoint up to 10 temporary extra help deputy clerk student workers I, II, or III, who shall be paid at an hourly rate and shall serve at the pleasure of the court administrator. Deputy clerk student worker I shall receive an hourly salary at a rate equal to that specified for student worker I in the County of San Diego. Deputy clerk student worker II shall receive an hourly salary at a rate equal to that specified for student worker II in the County of San

Diego. Deputy clerk student worker III shall receive an hourly salary at a rate equal to that specified for student worker III in the County of San Diego.

(s) One deputy clerk-associate or assistant accountant as the case may be. A deputy clerk associate accountant shall receive a biweekly salary at a rate equal to that specified for associate accountant in the classified service in the County of San Diego. A deputy clerk assistant accountant shall receive a biweekly salary at a rate equal to that specified for assistant accountant in the classified service of the County of San Diego.

(t) One deputy clerk-research attorney or law clerk as the case may be. A deputy clerk-research attorney shall receive a biweekly salary at a rate equal to that specified for deputy county counsel I in the classified service of the County of San Diego. A deputy clerk-law clerk shall receive a biweekly salary equal to that specified for law clerk in the classified service of the County of San Diego.

SEC. 8. Section 73958 of the Government Code is amended to read:

73958. (a) All persons holding positions on the effective date of any amendments to this article shall continue in their respective positions without further examination or qualification and at the added compensation provided in this article, including increments for continuous prior service in such positions in the court. Any person whose title is changed as a result of any amendments to this article shall receive credit for continued service to which he or she would be entitled under his or her previous position and shall receive compensation at the step covering such length of service. Thereafter, any increments earned by additional service in grade shall take effect upon the first day of the pay period following completion of such required service.

(b) In addition to the compensation provided in this article, the attachés of the municipal court shall receive, and they shall be entitled to the same vacations, holidays, sick leave, leaves of absence, bilingual pay, merit pay increases, retirement benefits and similar privileges and benefits as are now or may hereafter be provided for the employees of the County of San Diego in the comparable classes specified in subdivision (f) of Section 74343.1, including the right to participate in a retirement plan, in any group health, accident or life insurance plan, and in the tuition refund and suggestion awards programs adopted by the Board of Supervisors of San Diego County. For purposes of this subdivision only, the court administrator, and assistant court administrator, shall receive the same privileges and benefits as are received by the classification of chief probation officer of the County of San Diego. Division managers III and division managers I shall receive the same privileges and benefits as are received by administrative assistant III of the classified service of the County of San Diego. The term "same privileges and benefits" for purposes of this section shall include, but not be limited to, any benefits which are available to comparable classes in the classified

civil service of San Diego County pursuant to the provisions of any ordinance of the County of San Diego which credit to a member of the San Diego County Employees Retirement System extra days or fractions thereof, of service for retirement purposes for each day of uncompensated sick leave. Changes in privileges and benefits shall be effective on the same date as they are for employees of the County of San Diego in comparable classes. The majority of all the municipal court judges may adopt rules for the conduct of and personnel privileges to be afforded the attachés of the court.

(c) All attachés, except for the court administrator, the assistant court administrator, and the judicial secretary, may be appointed, promoted, removed, suspended or discharged for cause by the appointing authority subject in such appointment, promotion, removal, suspension or discharge to civil service provisions, applicable to the classified personnel of San Diego County. Whenever a person or attaché is appointed or promoted to a position, such person or attaché must serve a probationary period of at least six months.

(d) Notwithstanding the provisions of Section 71183, a person appointed by the court administrator from an eligible list certified by the County of San Diego to fill a temporary position established pursuant to Section 72150 and employed in such temporary position immediately prior to the effective date of any amendments to this article, may be appointed by such court administrator to a like permanent position in such court administrator's office without further examination, qualification or certification on a civil service eligible list; provided, that the number of such positions in the court administrator's office has been increased so as to make such temporary position a permanent position.

SEC. 9. Section 74341.1 is added to the Government Code, to read:

74341.1. In addition to any other compensation and benefits, each judge of the municipal court shall receive the same life insurance, accidental death and dismemberment insurance, comprehensive annual physical examinations, and dental and vision insurance as provided by the County of San Diego for the classification of Chief Administrative Officer. Changes in these benefits shall be effective on the same date as for those for the classification of Chief Administrative Officer.

SEC. 10. Section 74343 of the Government Code is amended to read:

74343. The court administrator may appoint:

(a) One assistant court administrator, with the consent of a majority of the judges of the court, who shall be empowered to act in the place and stead of the court administrator in the event that the court administrator is absent or unavailable for any reason and who shall receive a biweekly salary at a rate 41.9 percent higher than that specified for the position of division manager III.

(b) Four deputy clerks each of whom shall be division managers

III and who shall receive a biweekly salary at a rate 15.2 percent higher than that specified for division manager II. One of these positions may be named to act as branch manager. While acting in the capacity of branch manager the position shall receive a bonus of 10 percent.

(c) Five deputy clerks each of whom shall be division managers II and who shall receive a biweekly salary at a rate 15.5 percent higher than that specified for deputy clerk V.

(d) Eight deputy clerks V each of whom shall receive a biweekly salary at a rate 11 percent higher than that specified for deputy clerk IV.

(e) Forty-eight deputy clerks IV, each of whom shall receive a biweekly salary at a rate equal to that specified for superior court clerks in the classified service of the County of San Diego.

(f) One deputy clerk data entry supervisor who shall receive a biweekly salary at a rate equal to that specified for data entry supervisor in the classified service in the County of San Diego. Each vacancy occurring in this class shall cause a corresponding reduction in the number of deputy clerk data entry supervisors authorized; provided, however, that each of such vacancies shall increase by one, the number of positions designated as deputy clerk III.

(g) One hundred eighty-six deputy clerks III, II, or I, as the case may be. Each deputy clerk III shall receive a biweekly salary at a rate 17 percent below that specified for deputy clerk IV. Each deputy clerk II shall receive a biweekly salary at a rate 14 percent below that specified for a deputy clerk III. Each deputy clerk I shall receive a biweekly salary at a rate equal to that specified for intermediate clerk-typist in the classified service of the County of San Diego. Appointments to deputy clerk I may be at any step within the salary range at the discretion of the court administrator.

(h) One deputy clerk-assistant, associate or senior accountant as the case may be. A deputy clerk-assistant accountant shall receive a biweekly salary at a rate equal to that specified for the class of assistant accountant in the classified service in the County of San Diego. A deputy clerk-associate accountant shall receive a biweekly salary at a rate equal to that specified for the class of associate accountant in the classified service in the County of San Diego. A deputy clerk-senior accountant shall receive a biweekly salary at a rate equal to that specified for the class of senior accountant in the classified service in the County of San Diego.

(i) Five deputy clerk interpreters, each of whom shall receive a biweekly salary at a rate equal to that specified for deputy clerk III.

(j) One deputy clerk-administrative secretary IV who shall receive a biweekly salary at a rate equal to that specified for administrative secretary IV in the classified service of the County of San Diego.

(k) One deputy clerk-administrative secretary III, II, or I, as the case may be. A deputy clerk administrative secretary III shall receive a biweekly salary at the rate specified for administrative secretary III

in the classified service in the County of San Diego. A deputy clerk-administrative secretary II shall receive a biweekly salary at the rate specified for administrative secretary II in the classified service in the County of San Diego. A deputy clerk-administrative secretary I shall receive a biweekly salary at the rate specified for administrative secretary I in the classified service of the County of San Diego.

(*l*) One deputy clerk, chief-administrative services or administrative assistant III as the case may be. A deputy clerk, chief-administrative services shall receive a biweekly salary at a rate equal to that specified for chief-administrative services in the classified service in the County of San Diego. A deputy clerk-administrative assistant III shall receive a biweekly salary at a rate equal to that specified for administrative assistant III in the classified service in the County of San Diego.

(m) One deputy clerk-administrative assistant II or I, as the case may be. A deputy clerk-administrative assistant II shall receive a biweekly salary at a rate equal to that specified for administrative assistant II in the classified service in the County of San Diego.

(n) Any person occupying a position specified in subdivision (g) and performing bilingual duties as certified by the court administrator shall be paid additional compensation at the biweekly rate determined by the court administrator as specified for bilingual ability in the salary ordinance of the County of San Diego.

(o) Any person specified in subdivision (e) or (g) who is regularly assigned and certified by the court administrator as working more than 50 percent of his or her time or who is assigned more than 40 hours in any one pay period to operate a CRT machine, or to operate word processing equipment; or who is assigned to transcribe from a machine, shall be paid additional compensation at the biweekly rate specified for CRT machine, transcribing equipment, and word processing equipment operation in the salary ordinance of the County of San Diego. This additional compensation shall be in addition to the salary prescribed for his or her class for all hours worked. For purposes of terminal pay, this premium shall not be computed on the employee's base wage rate.

(p) Twenty-six clerks assigned to positions that the court administrator has designated as requiring specialized skills and training, while serving in such capacities as a deputy clerk IV or below, shall receive a biweekly salary 5 percent higher than that which such deputy clerks were receiving prior to such assignment. This premium shall apply to time worked, shall not apply toward paid time off or to terminal pay, and shall remain in effect so long as the provision for the 5-percent bonus exists for superior court clerk assignment within the salary ordinance of the County of San Diego. The court administrator shall promulgate specific job-related criteria to measure these specialized skills and training as they relate to work assignments as a courtroom clerk or as a supervisor, and shall provide all affected parties with these criteria within one month after the

commencement of the period of eligibility.

(q) Up to 10 deputy clerk-court workers. The class of deputy clerk-court worker provides for temporary appointments to positions for which no specific classes have been established pending a review and evaluation of the duties of these positions by the court administrator, and the establishment of specific classes. The rate of pay for each individual employed in this class shall be within the designated range at a rate determined by the court administrator. In all cases, the application of the rules contained in this article as they relate to appointments to deputy clerk-court worker shall be governed by the application of this article as it applies to the duties of the class that is pending establishment. Appointments shall be temporary and shall not exceed 18 months. The salary range for persons employed pursuant to this section shall be three hundred ninety-seven dollars and sixty cents ($397.60) to two thousand four hundred twenty-one dollars and sixty cents ($2,421.60 biweekly, or four dollars and ninety-seven cents ($4.97) to thirty dollars and twenty-seven cents ($30.27) hourly. Employee benefits, if applicable, shall be equal to those granted to the class in the classified service of San Diego County to which the pending class will be tied for benefit purposes. While deputy clerk-court workers will not be eligible for automatic step increases provided in Section 74343.1, paid service as a deputy clerk-court worker may be counted toward step increases in the employee's permanent position which immediately follows the deputy clerk-court worker position.

(r) One deputy clerk-dp systems manager, senior systems analyst, associate systems analyst, or assistant systems analyst as the case may be. A deputy clerk-dp systems manager shall receive a biweekly salary at a rate equal to that specified for the class of edp systems manager in the classified service of the County of San Diego. A deputy clerk-senior systems analyst shall receive a biweekly salary at a rate equal to that specified for the classification of senior systems analyst in the classified service of the County of San Diego. A deputy clerk-associate systems analyst shall receive a biweekly salary at a rate equal to that specified for the classification of associate systems analyst in the classified service of the County of San Diego. A deputy clerk-assistant systems analyst shall receive a biweekly salary at a rate equal to that specified for the classification of assistant systems analyst in the classified service of the County of San Diego.

(s) One deputy clerk-printer, print shop helper, offset equipment operator or publications supervisor as the case may be. A deputy clerk-print shop helper shall receive a biweekly salary at a rate equal to that of print shop helper as specified in the classified service of the County of San Diego. A deputy clerk-offset equipment operator shall receive a biweekly salary at a rate equal to that of offset equipment operator in the classified service of the County of San Diego. A deputy clerk-publication supervisor who shall receive a biweekly salary at a rate equal to that specified for publications supervisor in the classified service of the County of San Diego.

(t) Up to 10 extra help deputy clerk trainee positions (hourly rate) to be appointed at the junior clerk-typist level as determined by the court administrator. These appointments shall be temporary for a period not to exceed six months, plus one additional period at the court administrator's option, not to exceed six months.

(u) Up to 10 extra help positions (hourly rate employees) to be appointed by the court administrator in the class and salary level deemed appropriate. These appointments shall be temporary for a period not to exceed six months, plus one additional period of up to six months, at the court administrator's option. Notwithstanding any other provisions of this section, the court administrator may fill these positions with persons employed for less than 91 working days during a fiscal year on a part-time basis.

(v) One deputy clerk-research attorney who shall receive a biweekly salary at a rate equal to that specified for deputy county counsel I in the County of San Diego.

(w) Notwithstanding subdivision (c) of Section 74350, the court administrator may appoint up to 10 temporary extra help deputy clerk student workers I, II, or III, who shall be paid at an hourly rate and shall serve at the pleasure of the court administrator. A deputy clerk student worker I shall receive an hourly salary at a rate equal to that specified for student worker I in the unclassified service of the County of San Diego. A deputy-clerk student worker II shall receive an hourly salary at a rate equal to that specified for student worker II in the unclassified service of the County of San Diego. A deputy clerk student worker III shall receive an hourly salary at a rate equal to that specified for student worker III in the unclassified service of the County of San Diego.

(x) One deputy clerk-edp coordinator who shall receive a biweekly salary at a rate equal to that specified for a departmental edp coordinator in the classified service of the County of San Diego.

(y) One deputy clerk-systems analyst trainee who shall receive a biweekly salary at a rate equal to that specified for a systems analyst trainee in the classified services of the County of San Diego.

SEC. 11. Section 74343.1 of the Government Code is amended to read:

74343.1. The salary schedule adopted by the Board of Supervisors of San Diego County for compensation of classified personnel is adopted and by reference incorporated herein.

(a) In no event shall the salary of the clerk or any deputy clerk who occupied his or her position on the day prior to the effective date of this section be less than his or her salary on such day. The salaries and percentages prescribed herein shall be calculated using the hourly rate of the highest step of both classes involved in such calculation, and the resulting hourly rate shall be rounded to the nearest cent. All pay steps referred to in this article shall for all purposes be considered to be steps 1, 2, 3, 4, and 5, respectively, and shall reflect hourly and biweekly rates at approximate 5-percent increments between steps.

(b) Unless otherwise specifically provided, each person appointed or promoted to a position, the compensation of which is fixed by reference to the salary schedule adopted by the Board of Supervisors of San Diego County for compensation of classified personnel shall, for the first six months of service, receive biweekly the rate of compensation specified in step 1 of the salary schedule for the position to which he or she is appointed. Upon the first day of the pay period following six months continuous service in step 1, the initial rate of compensation of such person shall be increased to step 2 of the salary schedule for the position occupied. Upon the first day of the pay period following six months' continuous service in step 2, the initial rate of compensation of such person shall be increased to step 3 of the salary schedule for the position occupied. On the first day of the pay period following six months of continuous service at step 3, such compensation shall be increased to step 4 of the salary schedule. On the first day of the pay period following 12 months of continuous service at step 4, such compensation shall be increased to step 5 of the salary schedule.

The provisions of this subdivision shall not apply to any person employed on and after January 1, 1975, and any such person shall be entitled to receive the same step increases as set forth in the salary ordinance of the County of San Diego on or after July 1, 1974.

(c) When any person in the service of the County of San Diego or in the service of another municipal court in San Diego County is appointed to a position in the service of the court compensated at a higher salary range than the salary range for the position relinquished or when any person in the service of the court is appointed or promoted to another position in such service compensated at a higher salary, he or she shall receive step 1 of such schedule if step 1 is at least one step higher than the salary received in the position relinquished; but if not, he or she shall receive initially that step schedule pertaining to such position which will provide a one-step increase in his or her compensation.

(d) Officers and attachés may be voluntarily transferred from a position in the service of a court in one judicial district to a position in the service of a court in another judicial district within the County of San Diego, from a position in the service of the County of San Diego to a position in the service of a court, from a position in the service of a court to a position in the service of the County of San Diego, or between the offices of court administrator and marshal in the same manner that classified employees of the County of San Diego may be transferred between departments of the county. In determining the step of the salary schedule at which such transferred employee shall be paid, the employee may be given credit for continuous prior service in the service of the court or the County of San Diego from which he or she was transferred.

(e) When any person in the service of the court is demoted to another position he or she shall receive compensation at the highest step of the salary schedule applicable to the position to which he or

she is demoted which provides a salary not higher than that previously received by such person, except that if such demotion is due to disciplinary action, the appointing authority may specify any step rate of such schedule which provides compensation not higher than that last previously received by such person.

(f) The hereinafter enumerated classes of positions in the court are deemed to be comparable in job level to certain classes in the service of San Diego County and whenever the salaries of such classes in the service of San Diego County are adjusted by the board of supervisors, the salaries of the comparable classes in the office of the court administrator shall be adjusted a commensurate percentage in the salary schedule. Such adjustment shall not be more than 20 percent higher or 20 percent lower than the salary schedule specified in this article. Such adjustments shall be effective on the same date of the action by the board of supervisors as it applies to the county classes. The comparable classes are as follows:

Municipal court class	County class
Deputy clerk, division manager III	Superior court clerk
Deputy clerk, division manager II	Superior court clerk
Deputy clerk, division manager I	Superior court clerk
Deputy clerk I	Intermediate clerk
Deputy clerk II	Superior court clerk
Deputy clerk III	Superior court clerk
Deputy clerk IV	Superior court clerk
Deputy clerk V	Superior court clerk
Deputy clerk-administrative clerk I, II & III	Superior court clerk
Supervising deputy clerk	Superior court clerk
Deputy clerk data entry supervisor	Data entry supervisor
Deputy clerk data entry operator	Data entry operator
Deputy clerk interpreter	Superior court clerk
Deputy clerk-administrative secretary III	Administrative secretary III
Deputy clerk-administrative secretary II	Administrative secretary II
Deputy clerk-administrative secretary I	Administrative secretary I
Deputy clerk-administrative secretary IV	Administrative secretary IV
Deputy clerk-chief administrative services	Chief, administrative services
Deputy clerk-administrative assistant III	Administrative assistant III
Deputy clerk-administrative assistant II	Administrative assistant II
Deputy clerk-administrative assistant I	Administrative assistant I

Deputy clerk-senior systems analyst	Senior systems analyst
Deputy clerk-associate systems analyst	Associate systems analyst
Deputy clerk-assistant systems analyst	Assistant systems analyst
Deputy clerk-senior accountant	Senior accountant
Deputy clerk-associate accountant	Associate accountant
Deputy clerk-assistant accountant	Assistant accountant
Deputy clerk-printer	Publications supervisor
Deputy clerk-trainee	Junior clerk-typist
Deputy clerk-law clerk	Law clerk
Deputy clerk-research attorney	Deputy county counsel I
Deputy clerk-edp coordinator	Departmental edp coordinator
Deputy clerk-print shop helper	Print shop helper
Deputy clerk-publication supervisor	Publication supervisor
Deputy clerk systems analyst trainee	Systems analyst trainee
Deputy clerk offset equipment operator	Offset equipment operator
Deputy clerk Dp assistance manager	Dp systems manager

(g) The court administrator and the assistant court administrator shall be eligible for the variable incentive compensation plan applicable to the executive service in the County of San Diego. Any initial step changes required by such plan shall be effective January 1, 1984. Any incentive adjustments hereafter granted shall be prospective only, and are subject to prior approval of the court, in the case of the court administrator, and of the court administrator in the case of the assistant court administrator. The court and the court administrator respectively shall promulgate specific job-related criteria to measure such performance, and must provide all affected attachés with criteria within one month after the commencement of the period of eligibility.

(h) All persons holding positions as chief, administrative services, division manager I, II, or III; and administrative assistant III; shall be eligible for the variable incentive compensation plan applicable to the classes represented by the management association in the County of San Diego. Any initial step changes required by such plan shall be effective upon the effective date of this amendment. Any incentive adjustments hereafter granted shall be prospective only, and are subject to prior approval of the court administrator. The court administrator shall promulgate specific job-related criteria to measure such performance, and must provide all affected attachés with such criteria within one month after the commencement of the period of

eligibility.

SEC. 12. Section 74350 of the Government Code is amended to read:

74350. (a) All persons holding positions on the effective date of any amendments to this article shall continue in their respective positions without further examination or qualification and at the added compensation provided in this article, including increments for continuous prior service in such positions in the court. Any person whose title is changed as a result of any amendments to this article shall receive credit for continued service to which he or she would be entitled under his or her previous position and shall receive compensation at the step covering such length of service. Thereafter, any increments earned by additional service in grade shall take effect upon the first day of the pay period following completion of such required service.

(b) In addition to the compensation provided in this article, the classes of attachés of the municipal court shall receive, and they shall be entitled to, the same vacations, holidays, sick leave, leaves of absence, bilingual pay, merit pay increases, retirement benefits and similar privileges and benefits as are now or may hereafter be provided for the employees of the County of San Diego in the comparable classes specified in subdivision (f) of Section 74343.1, including the right to participate in a retirement plan, in any group health, accident, or life insurance plan adopted by the Board of Supervisors of San Diego County, and in the tuition refund and suggestion awards programs adopted by the board. For purposes of this subdivision only, the court administrator and assistant court administrator shall receive the same privileges and benefits as are received by the classification chief probation officer of the County of San Diego. All persons holding positions of division manager I, II, or III, shall receive the same privileges and benefits as are received by the of administrative assistant III of the classified service of the County of San Diego. The term "same privileges and benefits" for the purposes of this section shall include, but not be limited to, any benefits which are available to comparable classes in the classified civil service of San Diego County pursuant to the provisions of any ordinance of the County of San Diego which credit to a member of the San Diego County Employees Retirement System extra days or fractions thereof, of service for retirement purposes for each day of uncompensated sick leave and deferred compensation benefits. Changes in privileges and benefits shall be effective on the same date as those for employees of the County of San Diego in comparable classes. The majority of all the municipal court judges may adopt rules for the conduct of, and personnel privileges to be afforded the attachés of the court.

(c) All attachés may be appointed, promoted, removed, suspended, or discharged for cause by the appointing authority subject in such appointment, promotion, removal, suspension, or discharge to civil service provisions applicable to the classified personnel of San

Diego County. Whenever a person or attaché is appointed or promoted to a position, such person or attaché shall serve a probationary period of at least six months.

(d) Notwithstanding the provisions of Section 71183, a person appointed by the court administrator from an eligible list certified by the County of San Diego to fill a temporary position established pursuant to Section 72150 and employed in such temporary position immediately prior to the effective date of any amendments to this article, may be appointed by such court administrator to a like permanent position in such court administrator's office without further examination, qualification, or certification on a civil service eligible list; provided, that the number of such positions in the court administrator's office has been increased so as to make such temporary position a permanent position.

SEC. 12.5. Section 74357 of the Government Code is amended to read:

74357. By order entered upon the minutes of the court, a majority of the judges of the municipal court of the San Diego Judicial District may appoint as many competent judicial secretaries as the business of the court requires, not to exceed six, who shall hold office during the pleasure of the judges of the court. One of these secretaries shall be appointed by the majority of the judges of the court as the chief judicial secretary, who, while serving in that capacity, shall receive a biweekly salary at a rate 25 percent higher than that specified for judicial secretary. Appointment to such position shall be at step 5.

Each judicial secretary other than the chief judicial secretary shall receive a biweekly salary at a rate equal to that specified for administrative secretary IV in the classified service of the County of San Diego, commencing at step 4 at initial employment and advancing to step 5 at the end of one year of continuous service.

Whenever the salary of administrative secretary IV of the classified service of the County of San Diego is adjusted by the Board of Supervisors of San Diego County, the salaries of the chief judicial secretary and judicial secretaries shall be adjusted a commensurate percentage on the same date, such adjustments to take effect on the effective date of any amendments to this article.

Notwithstanding the provisions of Section 74350, the chief judicial secretary and judicial secretaries shall receive and be entitled to the same vacations, sick leave, leaves of absence and similar privileges and benefits as are now or may hereafter be provided for administrative secretary IV in the classified service of the County of San Diego; provided, however, that the majority of the municipal court judges may adopt rules to provide for vacations, sick leave, leaves of absence and similar privileges and benefits different from those for administrative secretary IV in the classified service of the County of San Diego.

SEC. 13. Section 74364 of the Government Code is amended to read:

74364. The marshal may make the following appointments each

of whom shall receive the biweekly compensation as specified in the salary schedule adopted by the Board of Supervisors of San Diego County for compensation of classified personnel, which schedule is incorporated herein by reference:

(a) One assistant marshal. The compensation of the assistant marshal shall be 20 percent higher than that specified for captain.

(b) Four captains.

(c) Four lieutenants.

(d) Seventeen sergeants.

(e) One hundred thirty-five deputy marshals.

Any deputy marshal who may be assigned by the marshal to one of seven positions designated as lead deputy, shall receive, while serving in that capacity, biweekly compensation at a rate 5 percent higher than that received by the deputy.

The marshal may, at his or her discretion, fill a deputy marshal or court service officer position by accepting a lateral transfer from another California peace officer agency. The transferee must have been actively employed in a position enumerated in Section 830.1, or 830.2, or 830.4 of the Penal Code within the past three years, or have attended and successfully completed a basic P.O.S.T. academy within three years prior to appointment.

(f) One administrative secretary I, II, or III.

(g) One chief, administrative services or administrative assistant III.

(h) Eighteen intermediate typists.

(i) Six senior typists.

(j) Thirty-five deputy marshal-cadets. Notwithstanding any other provisions of this article, in no event shall a deputy marshal-cadet's salary be less than 65 percent of the salary of a deputy marshal at the corresponding pay step. The marshal-cadet is a peace officer trainee position which requires appointees to be at least 18 years of age and meet the qualifications and standards prescribed for deputy marshals. At the time an incumbent in the class of deputy marshal-cadet attains the age of 21 he or she may be appointed by the marshal to a position in the class of deputy marshal or court service officer, provided such position is open, without further qualification or examination.

A deputy marshal-cadet shall receive 65 percent of the uniform allowance prescribed for deputy marshals, under the same conditions prescribed for deputy marshals. In the event that a deputy marshal-cadet is appointed to the class of deputy marshal or court service officer, he or she shall receive the amount of reimbursement of the cost of required uniforms and equipment prescribed for a newly hired deputy marshal or court service officer, less any reimbursement received by him or her for the cost of required deputy marshal-cadet uniforms and equipment.

(k) Up to 15 extra help positions (hourly rate employees) to be appointed at a level as determined by the marshal. Such appointments shall be temporary for a period not to exceed six months, plus

one additional period at the marshal's option, not to exceed six months. Notwithstanding any other provisions of this section, the marshal may fill these positions with persons employed for less than 91 working days during a fiscal year on a part-time basis.

(l) One junior typist. Each vacancy occurring in this class shall cause a corresponding reduction in the number of junior typists hereby authorized, provided, however, that such vacancy shall increase by one, a position in the class intermediate typist under subdivision (h).

(m) Eight legal procedures clerks III.

(n) Thirty legal procedures clerks II or I.

(o) Every person specified in subdivision (f), (h), (i), (j), (*l*), (m), or (n) who works a night shift shall be paid an hourly bonus equivalent to that bonus paid to night shift workers in the classified service of San Diego County who are in the comparable positions specified in Section 74374. Every person specified in subdivision (f), (h), (i), (j), (*l*), (m), or (n) who is regularly assigned and certified by the marshal as working more than 50 percent of his or her time, or who is assigned more than 40 hours in any one pay period to operate a CRT machine, or to operate word processing equipment; or who is assigned to transcribe from a machine may be paid additional compensation at the biweekly rate specified for a CRT machine, transcribing equipment and word processing equipment operation in the Salary Ordinance of the County of San Diego. This additional compensation shall be in addition to the salary prescribed for his or her class for all hours worked. For purposes of terminal pay, this premium shall not be computed on the employee's base wage rate.

(p) Sixty court service officers. In no event shall a court service officer's salary be less than 80 percent of a deputy marshal at the corresponding pay step. A court service officer shall receive the same uniform allowance prescribed for a deputy marshal, under the same conditions prescribed for deputy marshals. The marshal may appoint a court service officer to a vacant position of deputy marshal without further qualification or examination. In the event that a court service officer is appointed to the position of deputy marshal, he or she shall receive the amount of reimbursement prescribed for a newly hired deputy marshal, less any reimbursement received by him or her for the cost of required court service officer uniforms and equipment. Court service officers shall be peace officers pursuant to Section 830.4 of the Penal Code. Notwithstanding any other provision of law, court services officers shall be general members of the county employees retirement system.

Any court service officer who meets length of service, educational and performance requirements established by the marshal and approved by the County Director of the Office of Employee Services, may receive a biweekly compensation at a rate 7½ percent higher than that otherwise received by a court service officer. The number of court service officer positions so compensated shall not exceed

one-half the total number of court service officers then employed by the marshal.

(q) Any person specified in subdivisions (f), (h), and (i), who may be assigned by the marshal to one of the positions designated as executive secretary or administrative-personnel secretary shall receive, while serving in that capacity, biweekly compensation at a rate 10 percent higher than that specified in such person's designated subdivision.

(r) Two principal clerks.

(s) Three communications dispatchers.

(t) Two administrative assistants III, II, I, or trainee.

(u) Notwithstanding any other provision of this article, when an employee provided for in this article is eligible for increased compensation as a result of possessing a Peace Officer Standards and Training certificate, such increased compensation shall be the biweekly rate specified in the Salary Ordinance of the County of San Diego for comparable classes in the classified civil service of the County of San Diego.

(v) Three student workers I, II, or III. Notwithstanding the provisions of Section 74373, the marshal may appoint up to 3 temporary extra help marshal student workers I, II, or III who shall be paid at an hourly rate and shall serve at the pleasure of the marshal. A marshal student worker I, II, or III shall receive an hourly salary at the rate equal to that specified for the class of student worker I, II, or III respectively in the unclassified service of San Diego County.

(w) One edp coordinator, senior systems analyst, associate systems analyst or assistant systems analyst.

SEC. 14. Section 74370 of the Government Code is amended to read:

74370. In addition to the compensation provided in this article the marshals and other attachés of the municipal court shall receive, and they shall be entitled to the same vacation, sick leaves, leaves of absence, bilingual pay, holidays, merit pay increases, retirement benefit, deferred compensation benefits, and all privileges and benefits as are now or may hereafter be provided for the employees of the County of San Diego, including the right to participate in any group accident, health, life insurance, or retirement plan adopted by the board of supervisors of the county.

For purposes of providing the privileges and benefits specified in this section, each class in the marshal's office shall receive benefits equal to those of the comparable class in the classified civil service of San Diego County as specified in Section 74374. The term "benefits equal" for purposes of this section shall include, but not be limited to, any benefits which are available to comparable class in the classified civil service of San Diego County pursuant to the provisions of any ordinance of the County of San Diego which credit to a member of the San Diego County Employees Retirement System extra days, or fractions thereof, of service for retirement purposes for each day of uncompensated sick leave. For the purpose of this subdivision

only, the marshal and assistant marshals shall receive no less privileges and benefits than are received by the chief probation officer of the County of San Diego.

SEC. 15. Section 74374 of the Government Code is amended to read:

74374. The hereinafter enumerated classes of positions in the marshal's office of San Diego County are deemed to be equivalent in job, salary level, and benefit level to certain classes in the classified civil service of San Diego County and whenever the salary of a class in the service of San Diego County is adjusted by the board of supervisors, the salary of the equivalent class in the marshal's office shall be adjusted in the same amount. Such adjustments shall be effective on the same date as the effective date of the action by the board of supervisors as it applies to the county classes. In the event a system of merit pay increases is established by the County of San Diego for employees in a particular class, like merit increases, if justified, may be authorized by the appointing authority for marshal's office employees who are in equivalent classes. Any salary adjustments made as a result of this section shall be effective until amended by the Legislature.

The equivalent classes are as follows:

Marshal class	County class
Captain	Deputy sheriff-captain
Lieutenant	Deputy sheriff-lieutenant
Sergeant	Deputy sheriff-sergeant
Deputy marshal	Deputy sheriff
Court service officer	Revenue and recovery officer II
Cadet	Revenue and recovery officer trainee
Communications dispatcher	Communications dispatcher
Principal clerk	Principal clerk
Legal procedures clerk III	Legal procedures clerk III
Legal procedures clerk II	Legal procedures clerk II
Legal procedures clerk I	Legal procedures clerk I
Senior typist	Senior clerk-typist
Intermediate typist	Intermediate clerk-typist
Junior typist	Junior clerk-typist
Chief, administrative services	Chief, administrative services
Administrative assistant III	Administrative assistant III
Administrative assistant II	Administrative assistant II
Administrative assistant I	Administrative assistant I
Administrative trainee	Administrative trainee
EDP coordinator	Edp coordinator
Senior systems analyst	Senior systems analyst
Associate systems analyst	Associate systems analyst

Assistant systems analyst	Assistant systems analyst
Administrative secretary III	Administrative secretary III
Administrative secretary II	Administrative secretary II
Administrative secretary I	Administrative secretary I

SEC. 16. Section 74705 of the Government Code is amended to read:

74705. Certain classes of employment in the municipal courts are deemed to be equivalent in job responsibility and salary level to certain classes in the service of the County of Sonoma, or in some instances, to such classes plus or minus a specified percentage rate. Whenever the salary of those classes in the service of the County of Sonoma is adjusted by the board of supervisors, the salary of the comparable classes in the municipal courts shall be adjusted to a like extent plus or minus the percentage rate specified in this section, if applicable. Such adjustment shall become effective on the same date as the effective date of the action by the board of supervisors, as it applies to the classes in the service of the county, but such adjustment shall remain effective only until January 1 of the second year following the calendar year in which such adjustment is made.

Municipal court classification	County classification
Clerk administrator jury commissioner	clerk administrator
Assistant clerk administrator	Assistant county clerk, plus 2.5%
Municipal court reporter	Superior court reporter
Administrative assistant	Administrative assistant
Municipal court services supervisor	Court services supervisor plus 5.0%
Accountant I	Accountant I
Municipal court secretary	Executive secretary plus 4.0%
Municipal court clerk IV	Supervising clerk II
Deputy jury commissioner	Deputy jury commissioner
Account clerk III	Account clerk III
Municipal courtroom clerk	Superior court clerk
Municipal court clerk III	Supervising clerk I
Accountant clerk II/I	Account clerk II/I
Municipal court clerk II	Clerk-typist III
Clerk typist III	Clerk typist III
Municipal court clerk I	Clerk-typist II
Telephone operator	Telephone operator
Clerk typist II/I	Clerk typist II/I

SEC. 17. Section 74708 of the Government Code is amended to read:

74708. In the municipal court in the district which coincides with all the territory in the County of Sonoma, there shall be the following personnel:

(a) There shall be six judges who may together appoint:
(1) One court commissioner.
(2) One clerk administrator.
(3) One court reporter.
(4) Two municipal court secretaries.
(b) The clerk administrator may appoint:
(1) One assistant clerk administrator.
(2) One administrative assistant.
(3) One municipal court services supervisor.
(4) One accountant II/I.
(5) Fifteen municipal court clerks IV.
(6) One deputy jury commissioner.
(7) One account clerk III.
(8) Nineteen municipal court clerks III.
(9) Four account clerks II/I.
(10) Twenty-four municipal court clerks II/I.
(11) One clerk typist III (jury).
(12) One telephone operator.
(13) Five clerk typists II/I.

Section 74741.1 is added to the Government Code, to read:

74741.1. In addition to any other compensation and benefits, each judge of the municipal court shall receive the same life insurance, accidental death and dismemberment insurance, comprehensive annual physical examinations, and dental and vision insurance as provided by the County of San Diego for the classification of Chief Administrative Officer. Changes in such benefits shall be effective on the same date as for those for the classification of Chief Administrative Officer.

SEC. 18. Section 74782.1 is added to the Government Code, to read:

74782.1. A majority of the municipal court judges may appoint one commissioner who shall possess the same qualifications as the law requires of a judge of a municipal court. The duties of the commissioner shall be as prescribed by law. The commissioner shall receive 75 percent of the salary of a judge of the municipal court and shall not engage in the private practice of law. The commissioner shall be entitled to all employee benefits that are provided for, or made applicable to, the other employees of the court.

SEC. 19. 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 1550

An act to add Section 311.10 to the Penal Code, relating to obscene matter.

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

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

SECTION 1. Section 311.10 is added to the Penal Code, to read:

311.10. (a) Any person who advertises for sale or distribution any obscene matter knowing that it depicts a person under the age of 18 years personally engaging in or personally simulating sexual conduct, as defined in Section 311.4, is guilty of a felony and is punishable by imprisonment in the state prison for two, three, or four years, or in a county jail not exceeding one year, or by a fine not exceeding fifty thousand dollars ($50,000), or by both such fine and imprisonment.

(b) Subdivision (a) shall not apply to the activities of law enforcement and prosecution agencies in the investigation and prosecution of criminal offenses.

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 1551

An act to amend Section 11489 of the Health and Safety Code, and to amend Sections 5458, 5476, 5478, 5479, 5480, 5481, 5482, and 5483 of, and to add Section 5481.5 to, the Welfare and Institutions Code, relating to mental health, and making an appropriation therefor.

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

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

SECTION 1. Section 11489 of the Health and Safety Code is amended to read:

11489. Notwithstanding Section 11502 and except as otherwise provided in Sections 11473 and 11473.2, in all cases where the property is seized pursuant to this chapter and forfeited to the state or local governmental entity and, where necessary, sold by the Department of General Services or local governmental entity, the money forfeited or the proceeds of sale shall be distributed by the

state or local governmental entity as follows:

(a) To the bona fide or innocent purchaser, conditional sales vendor, or mortgagee of the property, if any, up to the amount of his or her interest in the property, when the court declaring the forfeiture orders a distribution to that person.

(b) The balance, if any, to accumulate, and to be distributed and transferred quarterly in the following order:

(1) To the Department of General Services or local governmental entity for all expenditures made or incurred by it in connection with the sale of the property, including expenditures for any necessary repairs, storage, or transportation of any property seized under this chapter.

(2) The local governmental entity or the state shall be reimbursed for all expenditures made or incurred by the local governmental entity's law enforcement and prosecutorial agency or the Department of Justice, or any other state agency, in connection with the forfeiture proceedings and criminal conviction, including, but not limited to, personnel costs, expenditures for witness fees, reporter's fees, transcripts, printing, traveling, undertakings, and investigation.

(3) The remaining funds shall be allocated equally to each of the following:

(A) The State Department of Mental Health for deposit in the Mental Health Primary Prevention Fund for primary prevention programs in accordance with Chapter 1083 of the Statutes of 1981. There is hereby created in the State Treasury the Mental Health Primary Prevention Fund. Notwithstanding Section 13340 of the Government Code, the moneys in the Mental Health Primary Prevention Fund are hereby continuously appropriated to the State Department of Mental Health to expend for primary prevention programs in accordance with Chapter 6 (commencing with Section 5475) of Part 1 of Division 5 of the Welfare and Institutions Code. Expenditures may include administrative costs incurred by the department. These administrative costs are not to exceed 5 percent of the fund. Notwithstanding the provisions of Section 16305.7 of the Government Code, any interest earned or other increment derived from investments made from moneys in the fund shall be deposited in the Mental Health Primary Prevention Fund.

(B) The Controller for deposit into the Narcotics Assistance and Relinquishment by Criminal Offender Fund, as provided in Section 11493.

(c) All the funds distributed to a local governmental entity pursuant to paragraph (2) of subdivision (b) shall be distributed by that entity only to its law enforcement and prosecutorial agency to be used solely for investigation, detection, and prosecution of criminal activities. All funds distributed to the state under paragraph (2) of subdivision (b) shall be allocated to the Department of Justice for investigation, detection, and prosecution of criminal activities.

Each governmental agency seeking reimbursement under

subdivision (b) shall notify the district attorney or the Attorney General prosecuting the forfeiture of the nature and amount of its claim. The prosecuting agency shall petition the court for these costs and the court shall order the forfeiture of proceeds distributed to the local governmental entity or the state for any agency expenditures. Should the amount forfeited be insufficient to pay all expenditures claimed, the court shall order the funds distributed on a pro rata basis. For purposes of this section, "local governmental entity" means any city, county, or city and county in the state.

All property seized and all proceeds from the sale of property seized pursuant to this chapter prior to the effective date of the amendments to this section made in the first year of the 1985–86 Regular Session shall be distributed in accordance with the provisions of this section in effect prior to those amendments.

SEC. 1.5. Section 11489 of the Health and Safety Code is amended to read:

11489. Notwithstanding Section 11502 and except as otherwise provided in Sections 11473 and 11473.2, in all cases where the property is seized pursuant to this chapter and forfeited to the state or local governmental entity and, where necessary, sold by the Department of General Services or local governmental entity, the money forfeited or the proceeds of sale shall be distributed by the state or local governmental entity as follows:

(a) To the bona fide or innocent purchaser, conditional sales vendor, or mortgagee of the property, if any, up to the amount of his or her interest in the property, when the court declaring the forfeiture orders a distribution to that person.

(b) The balance, if any, to accumulate, and to be distributed and transferred quarterly in the following manner:

(1) To the Department of General Services or local governmental entity for all expenditures made or incurred by it in connection with the sale of the property, including expenditures for any necessary repairs, storage, or transportation of any property seized under this chapter.

(2) The local governmental entity or the state shall be reimbursed for all expenditures made or incurred by the local governmental entity's law enforcement and prosecutorial agency or any state agency, in connection with the forfeiture proceedings and criminal conviction, including, but not limited to, personnel costs, expenditures for witness' fees, reporters' fees, transcripts, printing, traveling, undertakings, and investigation.

(3) The remaining funds shall be allocated equally to each of the following:

(A) The State Department of Mental Health for deposit in the Mental Health Primary Prevention Fund for primary prevention programs in accordance with Chapter 1083 of the Statutes of 1981. There is hereby created in the State Treasury the Mental Health Primary Prevention Fund. Notwithstanding Section 13340 of the Government Code, the moneys in the Mental Health Primary

Prevention Fund are hereby continuously appropriated to the State Department of Mental Health to expend for primary prevention programs in accordance with Chapter 6 (commencing with Section 5475) of Part 1 of Division 5 of the Welfare and Institutions Code. Expenditures may include administrative costs incurred by the department. These administrative costs are not to exceed 5 percent of the fund. Notwithstanding the provisions of Section 16305.7 of the Government Code, any interest earned or other increment derived from investments made from moneys in the fund shall be deposited in the Mental Health Primary Prevention Fund.

(B) The Controller for deposit into the Narcotics Assistance and Relinquishment by Criminal Offender Fund as provided in Section 11493.

(C) All funds allocated to the Department of Justice by the federal government under their Federal Asset Forfeiture program authorized by the Comprehensive Crime Control Act of 1984 shall be deposited directly into the Narcotics Assistance and Relinquishment by Criminal Offender Fund and used for the law enforcement efforts of state and local governments pursuant to Section 11493.

(c) All the funds distributed to a local governmental entity pursuant to paragraph (2) of subdivision (b) shall be distributed by that entity only to its law enforcement and prosecutorial agency to be used solely for investigation, detection, and prosecution of criminal activities. All funds distributed to the state pursuant to paragraph (2) of subdivision (b) shall be allocated to the Department of Justice for investigation, detection, and prosecution of criminal activities. Each governmental agency seeking reimbursement under this subdivision shall notify the district attorney or the Attorney General prosecuting the forfeiture of the nature and amount of its claim. The prosecuting agency shall petition the court for these costs and the court shall order the forfeiture proceeds distributed to the local governmental entity or the state for any agency expenditures. Should the amount forfeited be insufficient to pay all expenditures claimed, the court shall order the funds distributed on a pro rata basis. For the purposes of this section, "local governmental entity" means any city, county, or city and county in this state.

All property seized and all proceeds from the sale of property seized pursuant to this chapter prior to the effective date of the amendments to this section made in the first year of the 1985–86 Regular Session shall be distributed in accordance with the provisions of this section in effect prior to those amendments.

SEC. 2. Section 5458 of the Welfare and Institutions Code is amended to read:

5458. The following shall be the programs in the community residential treatment system. These programs shall be designed to provide, at every level, alternatives to institutional settings. Counties in applying for these funds shall show how each of these programs works with the current programs and in-place programs. Counties

may apply for funds in the following programs:

(a) A program for a short-term crisis residential alternative to hospitalization for individuals experiencing an acute episode or situational crisis requiring temporary removal from their home environment. The program shall be available for admissions 24 hours a day, seven days a week. The primary focus of this program shall be on reduction of the crisis, on stabilization, and on a diagnostic assessment of the person's existing support system, including recommendations for referrals upon discharge.

The services in the program shall include, but not be limited to, provision for direct family work, connections to prevocational and vocational programs, and development of a support system, including income and treatment referrals. This program shall be designed for persons who would otherwise be referred to an inpatient unit, either locally or in the state hospital. It shall be a 24-hour program, with an emphasis on stabilization and appropriate referral for further treatment or support services, or both.

Respite care services may be provided as a component of this program.

(b) A long-term residential treatment program, with a full day treatment component as a part of the program, for persons who may require intensive support for as long as two or three years. This program shall be designed to provide a rehabilitation program for the so-called "chronic" patient who needs long-term support in order to develop independent living skills. The clients in this program are to be those who would otherwise be living marginally in the community with little or no service support, and who would return many times to the hospital for treatment. It also is to serve those who are referred to, and maintained in, state hospitals or nursing homes because they require long-term, intensive support. This program is to go beyond maintenance to provide an active rehabilitation focus for these individuals.

The services in this program shall include, but not be limited to, intensive diagnostic work, including learning disability assessment, full day treatment program with an active prevocational and vocational component, special education services, outreach to develop linkages with the general social service system, and counseling to aid clients in developing the skills to move toward a less structured setting.

(c) A transitional residential program designed for persons who are able to take part in programs in the general community, but who, without the support of counseling, as well as the therapeutic community, would be at risk of returning to the hospital. This program may employ a variety of staffing patterns and is for persons who may be expected to move toward a more independent living setting within approximately three months to one year. The clients shall be expected to play a major role in the functioning of the household, and shall be encouraged to accept increasing levels of responsibility, both in the residential community, and in the

community as a whole. Residents are required to be involved in daytime activities outside of the house which are relevant to their personal goals and conducive to their achieving more self-sufficiency.

The services in this program include, but are not limited to, counseling and ongoing assessment, development of support systems in the community, a day program which encourages interaction between clients and the community-at-large, and an activity program that encourages socialization and utilization of general community resources.

(d) A program for semisupervised, independent, but structured living arrangement for persons who do not need the intensive support of the other system programs, but who, without some support and structure, are at risk to return to a condition requiring hospitalization. The individual apartments or houses are to be shared by three to five persons. These small cooperative housing units shall function as independent households with direct linkages to staff support in case of emergencies, as well as for regular assessment and evaluation meetings. Individuals may use satellite housing as a transition to independent living, or may remain in this setting indefinitely in order to avoid the need for more intensive settings.

This program is for persons who only need minimum support in order to live in the community. These individuals may require rent subsidy, as well as the backup of another system, in order to remain in this setting. The satellite units are to be as normative as the general living arrangements in the communities in which they are developed.

(e) In areas applying for a system where there is no day treatment program, or where the day treatment program is housed totally in a hospital, the county shall be encouraged to develop such a program, consistent with the principles and practices outlined above, in a noninstitutional setting and employing a rehabilitation focus. Where there are already existing services, efforts should be made to assure the capability of such day treatment services with the goals of the system programs. This may require the relocation of such services or the addition of staff.

(f) The program for socialization centers shall be designed to serve a broad range of clients, including those in the system programs, when appropriate, as well as persons living in the community in general. This program is designed to provide regular daytime, evening, and weekend activities for persons who require long-term, structured support, but who do not receive such services in their living setting. Although the socialization center is meant to provide a maintenance support program for those individuals who only wish or require regular socialization opportunities, the programs should also provide the opportunity to develop the skills to move toward more independent functioning.

The services in this program shall include, but not be limited to, outings, recreational activities, cultural events, linkages to

community resources, as well as prevocational counseling, life skills training, and other rehabilitation efforts. This program is for persons who would lose contact with a social or treatment system, or both, if left to their isolated living situation, or their ability to participate in activities for the "general public." With this level of support, persons would be able to lead full and active lives, with the opportunity to develop the skills to move toward independent living. Also included in the program are adult education support programs which utilize community college and other adult education agencies. These services would provide opportunities to individuals throughout the community residential treatment system and in other living settings, including independent living, to develop skills necessary for independent living through the utilization of resources available to the general population.

(g) An in-home treatment program designed as an alternative to out-of-home placement for individuals who are otherwise not appropriate for, or do not choose to participate in, other elements of the community residential treatment system. This program is designed for those individuals who would benefit most from a treatment intervention in their home environment. It is a basic premise of this element that treatment focus on the development of family and other personal and community supports, rather than exclusively on the individual. The goal of the program is to reintegrate the individual with the family unit, when appropriate, and with the greater community without removing the person from his or her home environment.

The service may be designed as a crisis intervention for persons experiencing an acute episode or an ongoing independent living service, or both, for persons wishing to obtain or maintain housing and services in the community. Services provided shall include, but not be limited to, crisis intervention, family work, when appropriate, development of a specific treatment plan, development of an ongoing rehabilitation plan utilizing available resources in the community, and coordination with such services as case management, vocational rehabilitation, schools and other education services, and various special programs which would act as a support system for the individual.

(h) A volunteer-based companion program designed to encourage the development of personal relationships with residents of community care facilities with the goal of motivating and assisting residents to make a successful transition to independent living, or to programs of the community residential treatment system.

The service shall be provided primarily by volunteers, including students as a part of a college or university curriculum, who are supervised and coordinated by trained and experienced personnel. Services provided shall include, but not be limited to, recreation, one-to-one companionship, advocacy, and assistance in developing the knowledge and use of community resources, including housing and vocational services, and followup for persons who make the

transition to independent living.

(i) A self-help independent living program that utilizes mentally disabled persons living independently in the community to work with clients of the mental health system. Staff for this program shall consist of unpaid volunteers who are or have been clients of the mental health system. Paid staff shall be limited to coordinators of volunteer activities. The duties of the volunteers shall include, but not be limited to, training in independent living skills, housing advocacy and referral, financial benefits counseling, and peer counseling.

(j) A continuum of vocational services which provide at least the three following distinct levels:

(a) Work preparation.

(b) Work experience.

(c) Work placement.

Vocational services shall be designed in the context of a business which provides goods or services to the community. These vocational services shall be transitional in nature and shall include, but not be limited to, counseling and ongoing assessment of the client's vocational performance and goals. The staffing patterns shall include individuals with experience in the type of business or service being provided and persons who have been consumers of mental health services.

This section shall not be construed to limit the services of the Department of Rehabilitation to the mentally disabled.

SEC. 3. Section 5476 of the Welfare and Institutions Code is amended to read:

5476. Primary prevention projects shall be developed in accordance with the guidelines and principles set forth in this chapter. To this end, school districts and local mental health programs may implement primary prevention projects with available funds, or may jointly apply to the State Department of Mental Health to be considered for grant projects outlined in this chapter.

SEC. 4. Section 5478 of the Welfare and Institutions Code is amended to read:

5478. (a) Each primary prevention project shall have a core team consisting of school-based mental health professionals, including pupil personnel professionals or local mental health program professionals, or both, a senior aide, and a group of from two to five child aides.

(b) The mental health professionals shall be responsible for accepting referred children into the program, program coordination and supervision of the senior and child aides, assignment of a child to an aide, evaluation of progress, and determination of termination from the program. The mental health professionals shall supervise the scoring and interpretation of screening test data, conduct conferences with parents, and evaluate the effectiveness of individual aides.

(c) The senior aide shall be responsible for communication among school personnel, the mental health professionals, including pupil personnel professionals, and the child aides and for the administrative functions of scheduling with aides and teachers, arranging case conferences, and maintaining records.

(d) Child aides, under supervision of a mental health professional, shall conduct the weekly sessions of expressive play with children served in the primary prevention projects. Child aides may be salaried school aides, unpaid volunteers such as students, elderly persons or other persons with time and interest in working with young children, or may be provided stipends to meet expenses.

(e) All aides shall undergo a time-limited period of training that is focused on the main intervention strategies of the particular program and is provided prior to direct contacts with the children served in the primary prevention projects. Training shall, at a minimum, include basic child development, crisis intervention, techniques of expressive play, other intervention skills appropriate to identified problem areas, and instruction in utilizing supervision and consultation.

SEC. 5. Section 5479 of the Welfare and Institutions Code is amended to read:

5479. School districts and local mental health programs submitting joint proposals for grants under this chapter shall demonstrate a capability for referral to appropriate public and private community services. The referrals shall be made through contacts with families in response to information regarding the need for such referral arising from the child aide sessions.

SEC. 6. Section 5480 of the Welfare and Institutions Code is amended to read:

5480. (a) The State Department of Mental Health shall award primary prevention project grants pursuant to a request for proposal consistent with the provisions of this chapter. The grant award shall be administered by the local mental health program.

(b) Prior to dissemination of a request for proposal, the department shall establish a maximum figure for the amount of project funds available per school site and for the number of schools that may be funded per school district. The department shall be guided in its decisions by the availability of uncommitted funds in the Mental Health Primary Prevention Fund.

(c) Primary prevention project grants shall be funded from funds allocated to the Department of Mental Health for primary prevention programs in accordance with Section 11489 of the Health and Safety Code.

(d) Upon approving a primary prevention grant, the State Department of Mental Health shall contract with the grant recipient to provide a primary prevention project for a period of three years.

(e) Costs of a primary prevention project shall be financed on a basis of:

(1) Fifty percent from primary prevention project grant funds or

a maximum established by the department, whichever is less.

(2) At least 50 percent from a combination of school district and local mental health program funds.

(f) The school district share may be in-kind contributions, including staff, space, equipment, materials, and reasonable administrative services.

(1) Contributed space to be used for child aide sessions must be comfortable, attractive, and engaging to young children. Small individual rooms are preferable.

(2) Space to be used for group meetings and consultation sessions may also be contributed.

(3) Equipment and materials may be contributed if it includes items that encourage child participation in expressive play.

(g) The local mental health program share may include either the cost of the mental health professional as described in subdivision (b) of Section 5478 or the contribution of professional staff to provide case consultation to the child aides and assistance in child aide training.

SEC. 7. Section 5481 of the Welfare and Institutions Code is amended to read:

5481. The State Department of Mental Health shall, on the basis of applications submitted pursuant to a request for proposal, select recipients of primary prevention project grants based on the following criteria:

(a) Availability of professional and other program staff with related experience and interest in early intervention.

(b) Reasonable evidence of future stability of the program and its personnel.

(c) Representation of a wide range of economic, ethnic, and cultural populations.

(d) Demonstration of strong support by the teaching, pupil services, and administrative school personnel and by the local mental health program.

(e) Assurance that grants would supplement existing local resources.

SEC. 8. Section 5481.5 is added to the Welfare and Institutions Code, to read:

5481.5. (a) The role of the school district in each approved project shall be to:

(1) Arrange for school-based mental health professionals to supervise project staff and procedures. These persons may be either pupil personnel staff or local mental health program staff.

(2) Recruit and train child aides.

(3) Screen and assess children in accordance with guidelines established by the department.

(4) Provide individual and group play sessions to selected children in accordance with guidelines established by the department.

(5) Provide space and equipment for child aide sessions with

children and for staff meetings.

(6) Establish and maintain project records.

(7) Prepare project reports in accordance with guidelines established by the department.

(8) Submit periodic statements of project grant fund expenditures to the local mental health program for reimbursement in accordance with the approved project budget.

(b) The role of the local mental health program in each approved project shall be to:

(1) Administer state project grant funds awarded by the department by contracting with the school district to provide a primary prevention project in accordance with this chapter and the joint proposal of the local mental health program and the school district as approved by the department.

(2) Contribute professional staff to the project to do both of the following:

(A) Assist the school district in the recruiting and initial training of child aides.

(B) Provide ongoing case consultation and training to the child aides at regular intervals at the school site.

(3) Assure access to appropriate mental health treatment services available within the county's program for those children in the project and their families who require services that are beyond the scope and purposes of the Primary Prevention Project.

(c) The role of the State Department of Mental Health in each approved project shall be to:

(1) Develop a contract with the local mental health program for provision of a primary prevention project in accordance with this chapter and the joint proposal of the local program and school district as approved by the department.

(2) Disburse project grant funds to the local program in accordance with terms of the contract.

(3) Conduct site visits to each project school at least once during the first year of funding, and thereafter as necessary, in order to determine compliance with this chapter and the contract and to determine training needs of project staff.

(4) Provide for periodic training workshops for project staff.

(5) Establish guidelines for project procedures, screening and assessment of children, records, and reports.

SEC. 9. Section 5482 of the Welfare and Institutions Code is amended to read:

5482. The department shall provide for training of school project personnel. Funds for this purpose may be appropriated under Section 11489 of the Health and Safety Code, or through the state budget. Training of school project personnel may be contracted out to a program designated by the State Department of Mental Health appropriate to provide these services.

SEC. 10. Section 5483 of the Welfare and Institutions Code is amended to read:

5483. The State Department of Mental Health shall conduct a review of each primary prevention project at least once during the first year of funding, and thereafter as necessary.

The purposes of such reviews are project improvement and compliance with the guidelines set forth in this chapter. The review procedure shall be adequately flexible for application to primary prevention projects of varying sizes and models.

SEC. 11. Section 1.5 of this bill incorporates amendments to Section 11489 of the Health and Safety Code proposed by both this bill and AB 915. 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 11489 of the Health and Safety Code, and (3) this bill is enacted after AB 915, in which case Section 11489 of the Health and Safety Code, as amended by AB 915, shall remain operative only until the operative date of this bill, at which time Section 1.5 of this bill shall become operative, and Section 1 of this bill shall not become operative.

CHAPTER 1552

An act to amend Section 11250 of the Welfare and Institutions Code, relating to Aid to Families with Dependent Children.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 11250 of the Welfare and Institutions Code is amended to read:

11250. Aid, services, or both shall be granted under the provisions of this chapter, and subject to the regulations of the department, to families with related children under the age of 18 years, except as provided in Section 11253, in need thereof because they have been deprived of parental support or care due to:

(a) The death, physical or mental incapacity, or incarceration of a parent.

(b) The unemployment of a parent or parents.

(c) Continued absence of a parent from the home due to divorce, separation, desertion, or any other reason, except absence occasioned solely by reason of the performance of active duty in the uniformed services of the United States. "Continued absence" exists when the nature of the absence is such as either to interrupt or to terminate the parent's functioning as a provider of maintenance, physical care, or guidance for the child, and the known or indefinite duration of the absence precludes counting on the parent's performance of the function of planning for the present support or care of the child. If these conditions exist, the parent may be absent

for any reason, and may have left only recently or some time previously.

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 1553

An act to amend Sections 3500, 3501, 3502, 3504, 3505, 3515, 3516, 3517, 3518, 3519, and 3520 of, and to repeal Sections 3503, 3503.1, 3506, 3507, 3509, 3510, 3511, 3512, 3513, and 3514 of, the Penal Code, relating to biomedical and behavioral research.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 3500 of the Penal Code is amended to read:

3500. For purposes of this title:

(a) "Behaviorial research" means studies involving, but not limited to, the investigation of human behavior, emotion, adaptation, conditioning, and response in a program designed to test certain hypotheses through the collection of objective data. Behavioral research does not include the accumulation of statistical data in the assessment of the effectiveness of programs to which inmates are routinely assigned, such as, but not limited to, education, vocational training, productive work, counseling, recognized therapies, and programs which are not experimental in nature.

(b) "Biomedical research" means research relating to or involving biological, medical, or physical science.

(c) "Psychotropic drug" means any drug that has the capability of changing or controlling mental functioning or behavior through direct pharmacological action. Such drugs include, but are not limited to, antipsychotic, antianxiety, sedative, antidepressant, and stimulant drugs. Psychotropic drugs also include mind-altering and behavior-altering drugs which, in specified dosages, are used to alleviate certain physical disorders, and drugs which are ordinarily used to alleviate certain physical disorders but may, in specified dosages, have mind-altering or behavior-altering effects.

(d) "Research" means a class of activities designed to develop or contribute to generalizable knowledge such as theories, principles, or relationships, or the accumulation of data on which they may be based, that can be corroborated by accepted scientific observation

and inferences.

(e) "Research protocol" means a formal document setting forth the explicit objectives of a research project and the procedures of investigation designed to reach those objectives.

(f) "Phase I drug" means any drug which is designated as a phase I drug for testing purposes under the federal Food and Drug Administration criteria in Section 312.1 of Title 21 of the Code of Federal Regulations.

SEC. 1.5. Section 3501 of the Penal Code is amended to read:

3501. The Legislature affirms the fundamental right of competent adults to make decisions about their participation in behavioral research.

SEC. 2. Section 3502 of the Penal Code is amended to read:

3502. No biomedical research shall be conducted on any prisoner in this state.

SEC. 3. Section 3503 of the Penal Code is repealed.

SEC. 4. Section 3503.1 of the Penal Code is repealed.

SEC. 5. Section 3504 of the Penal Code is amended to read:

3504. Any physical or mental injury of a prisoner resulting from the participation in behavioral research, irrespective of causation of such injury, shall be treated promptly and on a continuing basis until the injury is cured.

SEC. 6. Section 3505 of the Penal Code is amended to read:

3505. Behavioral research shall be limited to studies of the possible causes, effects and processes of incarceration and studies of prisons as institutional structures or of prisoners as incarcerated persons which present minimal or no risk and no more than mere inconvenience to the subjects of the research. Informed consent shall not be required for participation in behavioral research when the department determines that it would be unnecessary or significantly inhibit the conduct of such research. In the absence of such determination, informed consent shall be required for participation in behavioral research.

SEC. 7. Section 3506 of the Penal Code is repealed.

SEC. 8. Section 3507 of the Penal Code is repealed.

SEC. 9. Section 3509 of the Penal Code is repealed.

SEC. 10. Section 3510 of the Penal Code is repealed.

SEC. 11. Section 3511 of the Penal Code is repealed.

SEC. 12. Section 3512 of the Penal Code is repealed.

SEC. 13. Section 3513 of the Penal Code is repealed.

SEC. 14. Section 3514 of the Penal Code is repealed.

SEC. 15. Section 3515 of the Penal Code is amended to read:

3515. The duties of the department are to determine:

(a) That the risks to the prisoners consenting to research are outweighed by the sum of benefits to the prisoners and the importance of the knowledge to be gained.

(b) That the rights and welfare of the prisoners are adequately protected, including the security of any confidential personal information.

(c) That the procedures for selection of prisoners are equitable and that subjects are not unjustly deprived of the opportunity to participate.

(d) That adequate provisions have been made for compensating research related injury.

(e) That the rate of remuneration is comparable to that received by nonprisoner volunteers in similar research.

(f) That the conduct of the activity will be reviewed at timely intervals.

(g) That legally effective informed consent will be obtained by adequate and appropriate methods.

SEC. 16. Section 3516 of the Penal Code is amended to read:

3516. No behavioral research shall be conducted on any prisoner in this state in the absence of a determination by the department consistent with this title.

SEC. 17. Section 3517 of the Penal Code is amended to read:

3517. The department shall promulgate rules and regulations reasonably necessary for the effective administration of the provisions of this title. Action on proposals submitted shall be taken within 60 days. The regulations shall be submitted to the Joint Legislative Prison Committee for review and shall not become operative until 60 days after submission.

SEC. 18. Section 3518 of the Penal Code is amended to read:

3518. The department shall promulgate rules and regulations prescribing procedures to be followed by any person who has a grievance concerning the operation of any particular research program conducted pursuant to this title.

SEC. 19. Section 3519 of the Penal Code is amended to read:

3519. The department shall evaluate the impact of research on human subjects approved and conducted pursuant to this title, including any adverse reactions.

SEC. 20. Section 3520 of the Penal Code is amended to read:

3520. The department shall make a biannual report containing a review of each research program which has been approved and conducted. The report shall be transmitted to the Legislature and shall be made available to the public.

CHAPTER 1554

An act to amend Section 33413 of the Health and Safety Code, relating to housing.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 33413 of the Health and Safety Code, as amended by Chapter 31 of the Statutes of 1985, 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 territorial jurisdiction of the agency.

(b) (1) At least 30 percent of all new or rehabilitated dwelling units developed 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 independently of the requirements of subdivision (a) and in the aggregate to housing made available pursuant to paragraphs (1) and (2), respectively, and not to each individual case of rehabilitation, development, or construction of dwelling units.

(c) The agency shall require that the aggregate number of replacement dwelling units and other dwelling units rehabilitated, developed, or constructed pursuant to subdivision (a) or (b) remain available at affordable housing cost to persons and families of low income, 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.

CHAPTER 1555

An act to amend Section 1950.5 of the Civil Code, relating to tenancies.

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

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

SECTION 1. Section 1950.5 of the Civil Code is amended to read:

1950.5. (a) The provisions of this section shall apply to security for a rental agreement for residential property, that is, property used as the dwelling of the tenant.

(b) As used in this section, "security" means any payment, fee, deposit or charge, including, but not limited to, an advance payment of rent, used or to be used for any purpose, including, but not limited to, any of the following:

(1) The compensation of a landlord for a tenant's default in the payment of rent.

(2) The repair of damages to the premises caused by the tenant or by a guest or licensee of the tenant.

(3) The cleaning of the premises upon termination of the tenancy.

(c) A landlord may not demand or receive security, however denominated, in an amount or value in excess of an amount equal to two months' rent, in the case of unfurnished residential property, and an amount equal to three months' rent in the case of furnished residential property, in addition to any rent for the first month paid on or before initial occupancy. This subdivision shall not be construed to prohibit an advance payment of not less than six months' rent where the term of the lease is six months or longer.

This subdivision shall not be construed to preclude a landlord and a tenant from entering into a mutual agreement for the landlord, at the request of the tenant and for a specified fee or charge, to make structural, decorative, furnishing, or other similar alterations, if the alterations are other than cleaning or repairing for which the landlord may charge the previous tenant as provided by subdivision

(e).

(d) Any security shall be held by the landlord for the tenant who is party to the lease or agreement. The claim of a tenant to the security shall be prior to the claim of any creditor of the landlord.

(e) The landlord may claim of the security only those amounts as are reasonably necessary to remedy tenant defaults in the payment of rent, to repair damages to the premises caused by the tenant or by a guest or licensee of the tenant, exclusive of ordinary wear and tear, or to clean the premises, if necessary, upon termination of the tenancy. The landlord may not assert a claim against the tenant or the security for damages to the premises or any defective conditions that preexisted the tenancy, for ordinary wear and tear or the effects thereof, whether the wear and tear preexisted the tenancy or occurred during the tenancy, or for the cumulative effects of ordinary wear and tear occurring during any one or more tenancies.

(f) No later than two weeks after the tenant has vacated the premises, the landlord shall furnish the tenant with an itemized written statement of the basis for, and the amount of, any security received and the disposition of the security and shall return any remaining portion of the security to the tenant.

(g) Upon termination of the landlord's interest in the dwelling unit in question, whether by sale, assignment, death, appointment of receiver or otherwise, the landlord or his or her agent shall, within a reasonable time, do one of the following acts, either of which shall relieve the landlord of further liability with respect to the security held:

(1) Transfer the portion of the security remaining after any lawful deductions made under subdivision (e) to the landlord's successor in interest, and thereafter notify the tenant by personal delivery or certified mail of the transfer, of any claims made against the security, and of the transferee's name, address, and telephone number. If the notice to the tenant is made by personal delivery, the tenant shall acknowledge receipt of the notice and sign his or her name on the landlord's copy of the notice.

(2) Return the portion of the security remaining after any lawful deductions made under subdivision (e) to the tenant, together with an accounting as provided in subdivision (f).

(h) Upon receipt of any portion of the security under paragraph (1) of subdivision (g), the transferee shall have all of the rights and obligations of a landlord holding the security with respect to the security.

(i) The bad faith claim or retention by a landlord or transferee of a security or any portion thereof, in violation of this section, may subject the landlord or the landlord's transferee to damages not to exceed two hundred dollars ($200), in addition to any actual damages, plus interest on the security, or remaining portion thereof, at the rate of 2 percent per month from the due date until paid. In any action under this section, the landlord shall have the burden of proof as to the reasonableness of the amounts claimed.

(j) No lease or rental agreement shall contain any provision characterizing any security as "nonrefundable."

(k) Any action under this section may be maintained in small claims court if the damages claimed, whether actual or punitive or both, are within the jurisdictional amount allowed by Section 116.2 of the Code of Civil Procedure.

(*l*) The amendments to this section made during the 1985 portion of the 1985–86 Regular Session of the Legislature which are set forth in subdivision (e) are declaratory of existing law. The amendments to this section made during the 1985 portion of the 1985–86 Regular Session of the Legislature which are set forth in subdivision (i) shall be applicable to all leases and other tenancies of residential property terminated on or after January 1, 1987.

SEC. 2. Section 1950.5 of the Civil Code is amended to read:

1950.5. (a) The provisions of this section shall apply to security for a rental agreement for residential property, that is, property used as the dwelling of the tenant.

(b) As used in this section, "security" means any payment, fee, deposit or charge, including, but not limited to, an advance payment of rent, used or to be used for any purpose, including, but not limited to, any of the following:

(1) The compensation of a landlord for a tenant's default in the payment of rent.

(2) The repair of damages to the premises caused by the tenant or by a guest or licensee of the tenant.

(3) The cleaning of the premises upon termination of the tenancy.

(c) A landlord may not demand or receive security, however denominated, in an amount or value in excess of an amount equal to two months' rent, in the case of unfurnished residential property, and an amount equal to three months' rent in the case of furnished residential property, in addition to any rent for the first month paid on or before initial occupancy. This subdivision does not prohibit an advance payment of not less than six months' rent where the term of the lease is six months or longer.

This subdivision does not preclude a landlord and a tenant from entering into a mutual agreement for the landlord, at the request of the tenant and for a specified fee or charge, to make structural, decorative, furnishing, or other similar alterations, if the alterations are other than cleaning or repairing for which the landlord may charge the previous tenant as provided by subdivision (e).

(d) Any security shall be held by the landlord for the tenant who is party to the lease or agreement. The claim of a tenant to the security shall be prior to the claim of any creditor of the landlord.

(e) The landlord may claim of the security only those amounts as are reasonably necessary to remedy tenant defaults in the payment of rent, to repair damages to the premises caused by the tenant, exclusive of ordinary wear and tear, or to clean the premises, if necessary, upon termination of the tenancy. The landlord may not assert a claim against the tenant or the security for damages to the

premises or any defective conditions that preexisted the tenancy, for ordinary wear and tear or the effects thereof, whether the wear and tear preexisted the tenancy or occurred during the tenancy, or for the cumulative effects of ordinary wear and tear occurring during any one or more tenancies.

(f) No later than two weeks after the tenant has vacated the premises, the landlord shall furnish the tenant with an itemized written statement of the basis for, and the amount of, any security received and the disposition of the security and shall return any remaining portion of the security to the tenant.

(g) Upon termination of the landlord's interest in the dwelling unit in question, whether by sale, assignment, death, appointment of receiver or otherwise, the landlord or the landlord's agent shall, within a reasonable time, do one of the following acts, either of which shall relieve the landlord of further liability with respect to the security held:

(1) Transfer the portion of the security remaining after any lawful deductions made under subdivision (e) to the landlord's successor in interest, and thereafter notify the tenant by personal delivery or certified mail of the transfer, of any claims made against the security, of the amount of the security deposited, and of the names of the successors in interest, their address, and their telephone number. If the notice to the tenant is made by personal delivery, the tenant shall acknowledge receipt of the notice and sign his or her name on the landlord's copy of the notice.

(2) Return the portion of the security remaining after any lawful deductions made under subdivision (e) to the tenant, together with an accounting as provided in subdivision (f).

(h) Prior to the voluntary transfer of a landlord's interest in a dwelling unit the landlord shall deliver to the landlord's successor in interest a statement indicating the following:

(1) The security remaining after any lawful deductions are made.

(2) His or her election under paragraph (1) or (2) of subdivision (g).

Nothing in this subdivision shall affect the validity of title to the real property transferred in violation of the provisions of this subdivision.

(i) In the event of noncompliance with subdivision (g), the landlord's successors in interest shall be jointly and severally liable with the landlord for repayment of the security, or that portion thereof to which the tenant is entitled, when and as provided in subdivisions (e) and (f). A successor in interest of a landlord may not require the tenant to post any security to replace that amount not transferred to the tenant or successors in interest as provided in subdivision (g), unless and until the successor in interest first makes restitution of the initial security as provided in paragraph (2) of subdivision (g) or provides the tenant with an accounting as provided in subdivision (f).

Nothing in this subdivision shall preclude a successor in interest

from recovering from the tenant compensatory damages that are in excess of the security received from the landlord previously paid by the tenant to the landlord.

Notwithstanding the provisions of this subdivision, if upon inquiry and reasonable investigation, a landlord's successor in interest has a good faith belief that the lawfully remaining security deposit is transferred to him or her or returned to the tenant pursuant to subdivision (g), he or she shall not be liable for damages as provided in subdivision (k), or any security not transferred pursuant to subdivision (g).

(j) Upon receipt of any portion of the security under paragraph (1) of subdivision (g), the landlord's successors in interest shall have all of the rights and obligations of a landlord holding the security with respect to the security.

(k) The bad faith claim or retention by a landlord or the landlord's successors in interest of the security or any portion thereof, in violation of this section or the bad faith demand of replacement security in violation of subdivision (i), may subject the landlord or the landlord's successors in interest to damages not to exceed two hundred dollars ($200), in addition to any actual damages, plus, from and after January 1, 1987, interest on the security, or remaining portion thereof, at the rate of 2 percent per month from the due date until paid. In any action under this section, the landlord or the landlord's successors in interest shall have the burden of proof as to the reasonableness of the amounts claimed or the authority pursuant to this section to demand additional security deposits.

(*l*) No lease or rental agreement shall contain any provision characterizing any security as "nonrefundable."

(m) Any action under this section may be maintained in small claims court if the damages claimed, whether actual or punitive or both, are within the jurisdictional amount allowed by Section 116.2 of the Code of Civil Procedure.

(n) Proof of the existence of and the amount of a security deposit may be established by any credible evidence, including, but not limited to, a canceled check, a receipt, a lease indicating the requirement of a deposit as well as the amount, prior consistent statements or actions of the landlord or tenant, or a statement under penalty of perjury which satisfies the credibility requirements set forth in Section 780 of the Evidence Code.

(o) The amendments to this section made during the 1985 portion of the 1985–86 Regular Session of the Legislature which are set forth in subdivision (e) are declaratory of existing law.

SEC. 3. Section 2 of this bill incorporates amendments to Section 1950.5 of the Civil Code proposed by both this bill and AB 1677. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 1950.5 of the Civil Code, and (3) this bill is enacted after AB 1677, in which case Section 1 of this bill shall not become operative.

CHAPTER 1556

An act to amend Sections 215, 495, and 816.5 of the Public Utilities Code, relating to carriers.

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

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

SECTION 1. Section 215 of the Public Utilities Code is amended to read:

215. "Between fixed termini or over a regular route" means the termini or route between which, or over which any passenger stage corporation usually or ordinarily operates any passenger stage, even though there may be departures from the termini or route, whether these departures are periodic or irregular.

SEC. 2. Section 495 of the Public Utilities Code is amended to read:

495. Every telegraph and telephone corporation shall print and file with the commission schedules showing all the rates and classifications for the transmission of messages or conversations between all of the following points:

(a) Between all points within this state and all points outside the state upon its route.

(b) Between all points within this state and all points outside the state upon every route leased, operated, or controlled by it.

(c) Between all points on its route or upon any route, leased, operated, or controlled by it within this state and all points outside the state upon the route of any other telegraph or telephone corporation, whenever a through route and joint rate have been established between any two of these points.

SEC. 3. Section 816.5 of the Public Utilities Code is amended to read:

816.5. (a) Nothing in this article or in Article 6 (commencing with Section 851) requires a common carrier by railroad subject to the Interstate Commerce Act (49 U.S.C. Sec. 10101 et seq.) or passenger stage corporation to secure from the commission authority to execute any conditional sales contract for the purchase of motor vehicle or railroad equipment or any note or chattel mortgage on that equipment securing the payment of all, or any part, of the purchase price.

(b) This article and Article 6 (commencing with Section 851) do not apply to a highway common carrier or a cement carrier.

CHAPTER 1557

An act to amend Sections 6509, 6520, 6522.5, 6523, 6524, 6527, 6527.5, 6528, 6535, 6545, 6545.1, 6546, 6548, 6549, 6549.6, 6550, 6550.5, 6565,6566,6567,6601, 6627,6627.1 and 6646 of, to amend and renumber Sections 6575.5, 6576, 6578, 6579, 6580, 6581, 6583, 6584, 6586, 6586.5, 6587, 6588, 6590, 6591, 6592, 6593, 6595, and 6596 of, to add Section 6576.5 to, to repeal Sections 6549.5 and 6589 of, the Business and Professions Code, relating to barbering.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 6509 of the Business and Professions Code is amended to read:

6509. For the purpose of enforcing this chapter, the board's executive officer, or, except as provided by Section 159.5, the board's agents or assistants, may enter, into and inspect any barbershop, college, or apprentice training program at any time during business hours or at any time when the practice of barbering or instruction in such practice is being carried on.

Any member of the board may enter and visit any barbershop, college, or apprentice training program at any time during business hours or at any time when the practice of barbering or instruction in such practice is being carried on. This visitation by a board member shall not be used as a basis for any licensing disciplinary action by the board.

SEC. 2. Section 6520 of the Business and Professions Code is amended to read:

6520. The practice of barbering embraces any of or any combination of the following practices for hire or reward:

(a) Shaving or trimming the beard or cutting the hair.

(b) Giving facial and scalp massages or treatments with oils, creams, lotions or other preparations either by hand or mechanical appliances.

(c) Singeing, shampooing, arranging, dressing, curling, waving, chemical waving, hair relaxing, or dyeing the hair or applying hair tonics.

(d) Applying cosmetic preparations, antiseptics, powders, oils, clays or lotions to scalp, face or neck.

(e) Hair styling of all textures of hair by standard methods which are current at the time of the hair styling.

SEC. 3. Section 6522.5 of the Business and Professions Code is amended to read:

6522.5. Any person who does any of the acts of barbering specified in Section 6520, including, but not limited to, cutting the hair of a patron, in a barbershop shall display either a valid registered

barber or a valid registered apprentice certificate issued by the board.

SEC. 4. Section 6523 of the Business and Professions Code is amended to read:

6523. It is unlawful for any person to engage in the practice of, or attempt to practice, barbering without a valid certificate of registration as a registered barber issued by the board.

SEC. 5. Section 6524 of the Business and Professions Code is amended to read:

6524. It is unlawful for any person to serve as an apprentice under the supervision of a registered barber and be employed by a barbershop owner without a valid certificate of registration as a registered apprentice issued by the board.

"Apprentice," as used in this chapter, means any person who is engaged in learning or acquiring the skills and knowledge of a barber in a licensed barbershop under the supervision of a registered barber approved by the board.

SEC. 6. Section 6527 of the Business and Professions Code is amended to read:

6527. It is unlawful for any person, firm, or corporation to operate a barber college unless such person, firm, or corporation holds a valid certificate of registration issued by the board and unless such certificate is displayed at all times in a conspicuous place on the premises.

SEC. 7. Section 6527.5 of the Business and Professions Code is amended to read:

6527.5. It is unlawful for any person, firm, or corporation to operate a barber college unless its training program is conducted at all times under the direct supervision of a person holding a valid certificate of registration as an instructor or provisional instructor issued by the board.

SEC. 8. Section 6528 of the Business and Professions Code is amended to read:

6528. It is unlawful for any person to act as an instructor in a barber college unless that person holds a valid instructor certificate or provisional instructor certificate issued by the board and unless the certificate and the person's certificate as a registered barber are displayed in a conspicuous place on the premises at all times. Any registered barber who applies to the board for an instructor certificate and who fulfills the requirements of subdivisions (a), (b), (c), and (d) of Section 6550.5, pays the amount equal to the instructor certificate fee, and enrolls within nine months of the application date in a teacher training program required by subdivision (a) of Section 6550.6 shall be issued a provisional instructor certificate and may act as an instructor for 12 consecutive months from the date of the original application. No person shall act as an instructor after expiration of that period until an instructor certificate is issued by the board.

SEC. 9. Section 6535 of the Business and Professions Code is

amended to read:

6535. No college of barbering shall be approved by the board unless it requires as a prerequisite to admission thereto, completion of the ninth grade, or the equivalent education as determined by an examination conducted by an examining agency prescribed by the board, and unless it requires as a prerequisite to graduation a course of instruction of not less than 1,500 hours to be completed within 18 months, at the rate of not more than eight hours in any one working day, except that a student may complete a service in process, with time credit, but not to exceed 30 additional consecutive minutes. The total number of weekly hours shall not exceed 40, except that the accumulated minutes necessary to complete a service in process shall be added thereto. The maximum weekly total of hours shall not exceed 42½.

The course of instruction shall consist of the fundamentals of the following subjects:

(a) Sanitation, antiseptics, sterilization, hygiene and bacteria. Instruction in these subjects shall be limited to their relation to barbering.

(b) Haircutting and shaving.

(c) Massaging of the scalp, face, and neck.

(d) Shampooing, and the applying of hair tonics, hairdressing preparations, and rinses.

(e) Facials and scalp massages or treatments with creams, lotions, oils or other cosmetic preparations either by hand or mechanical appliances, but such appliances shall not be galvanic nor faradic.

(f) Shop management, ethics, salesmanship, implements, and a brief study of the history of barbering.

(g) Laws and regulations governing the practice of barbering.

(h) Common skin and hair diseases of the scalp, face and neck.

(i) The structure and functions of the skin and hair of the scalp, face and neck.

(j) Cosmetic preparations used in the practice of barbering.

(k) Circulation, muscles, nerves and cells of the scalp, face and neck only as such subjects are related to massaging or other acts of barbering.

(*l*) Fundamentals of hair coloring and bleaching.

(m) Fundamentals of hair straightening (also known as hair relaxing).

(n) Hairpieces (toupees), measuring, fitting and servicing.

(o) Chemical waving of hair.

(p) Hair styling of all textures of hair. This service shall include individual style adaptation, razor hair styling and the use of the styling blower.

SEC. 10. Section 6545 of the Business and Professions Code is amended to read:

6545. The board shall issue a certificate of registration as a registered barber to a person who complies with all of the following:

(a) Files an application with the board in such form as it may

prescribe accompanied by the application and examination fees.

(b) Has completed the proper grade in school as provided in Section 6546.5, or has an equivalent education, as determined by an examination conducted by an examining agency prescribed by the board.

(c) Is at least 17 years of age.

(d) Is not subject to denial pursuant to Section 480.

(e) Has graduated from a college approved by the board or has properly completed an apprentice training program approved by the board and conducted under the provisions of the Shelley–Maloney Apprentice Labor Standards Act of 1939 (Chapter 4 (commencing with Section 3070) of Division 3 of the Labor Code).

(f) Has passed an examination conducted by the board to determine the applicant's fitness to practice as a registered barber.

(g) Has paid the certificate fee required by this chapter.

Any applicant for a certificate of registration to practice as a barber who fails the examination may file a new application accompanied by the required fees and take another examination.

SEC. 11. Section 6545.1 of the Business and Professions Code is amended to read:

6545.1. An applicant is qualified to receive a certificate of registration to practice barbering who complies with each of the following:

(a) The applicant is at least 17 years of age.

(b) The applicant is not subject to denial pursuant to Section 480.

(c) The applicant has completed the proper grade in school as prescribed in Section 6546.5, or has an equivalent education to be determined by an examination conducted by an examining agency prescribed by the board.

(d) The applicant has either of the following:

(1) A valid cosmetology certificate issued by the California Board of Cosmetology and presents proof satisfactory to the board that the applicant has performed the acts of cosmetology in a properly licensed cosmetology establishment in California for a period of at least three months within the last two years immediately before filing the application and proof of completion of a 400-hour course in a college approved by the board.

(2) Proof of completion of a 1,600-hour course in a cosmetology school licensed by the California Board of Cosmetology within one year immediately prior to filing of the application required by this section, and proof of completion of a 400-hour course in a barber college approved by the board.

(e) The applicant provides such other information the board may require.

(f) The applicant has passed an examination conducted by the board.

(g) The applicant has completed and filed an acceptable application with the board and has paid the application, examination and certificate fees required by this chapter.

If the applicant fails to pass the examination, a new application may be filed, accompanied by the required application and examination fees, and another examination taken. In no event shall the applicant be permitted to practice barbering until such time as an examination is satisfactorily passed and a certificate of registration as a registered barber is received.

SEC. 12. Section 6546 of the Business and Professions Code is amended to read:

6546. An applicant is qualified to receive a certificate of registration as a registered apprentice if the applicant complies with all of the following:

(a) The applicant has completed the proper grade in school as provided in Section 6546.5, or has an equivalent education, as determined by an examination conducted by an examining agency prescribed by the board.

(b) The applicant is at least 16 years of age.

(c) The applicant is not subject to denial pursuant to Section 480.

(d) The applicant is engaged in learning, or acquiring a knowledge of the occupation of barbering, in a licensed barbershop approved by the board and under the supervision of a registered barber approved by the board, provided that:

(1) The applicant is trained under the supervision of a registered barber instructor, for the first three months of apprenticeship training, or

(2) The applicant completes a minimum of 39 hours of preapprentice related training conducted by an approved apprenticeship training program approved under Section 6546.1 or has had a minimum of six months past training or experience in substantially the same subject as determined by a local joint apprenticeship training committee with approval of, and under guidelines set by, the board. The preapprentice related training shall not be conducted in a facility open to the general public for professional barber services nor shall the applicant enrolled in the training serve the general public. The preapprentice related training shall be credited toward the apprentice training required by this section.

(e) The applicant has completed and filed an acceptable application with the board and has paid the certificate and registration fee required by this chapter.

SEC. 13. Section 6548 of the Business and Professions Code is amended to read:

6548. (a) Not less than four times each year, two times in the southern part of the state and two times in the northern part of the state, the board shall conduct examinations to ascertain the educational qualifications of each of the following:

(1) Applicants for certificates of registration to practice as registered barbers.

(2) Applicants for certificates of registration to practice as instructors in a barber college.

(b) The examination of applicants for certificates of registration as registered barbers shall include both a practical demonstration and a written test and shall embrace the subjects usually taught in colleges of barbering approved by the board. The examination for a certificate of registration as a registered barber shall include the standard methods for dressing all textures of hair, including hair relaxing. The written examination shall be limited to clearly job-related questions on the following subjects:

(1) Sanitation, antiseptics, sterilization, hygiene, bacteria, and health and safety aspects of consumer protection.

(2) Hair tonics, hairdressing preparations, and rinses.

(3) Facials and scalp massages or treatments with creams, lotions, oils, or other cosmetic preparations either by hand or mechanical appliances which are not galvanic or faradic.

(4) Implements of barbering.

(5) Laws and regulations governing the practice of barbering.

(6) Common skin and hair diseases of the scalp, face, and neck.

(7) The structure and functions of the skin and hair of the scalp, face, and neck.

(8) Cosmetic preparations and chemicals used in the practice of barbering.

(9) Circulation, muscles, nerves, and cells of the scalp, face, and neck only as those subjects are related to massaging or other acts of barbering.

(10) Fundamentals of hair coloring and bleaching.

(11) Fundamentals of hair straightening (also known as hair relaxing).

(12) Chemical waving of hair.

(c) If an applicant fails to appear for a scheduled examination, the board may assess a penalty fee of not more than 50 percent of the examination fee and in no event to exceed five dollars ($5). The board shall reschedule the examination date for the applicant upon the applicant's payment of the penalty fee.

SEC. 14. Section 6549 of the Business and Professions Code is amended to read:

6549. A certificate to conduct a barbershop shall be issued to any owner of a barbershop upon receipt by the board of an application accompanied by the required fee, and in the case of a new shop or an existing shop at a new location, upon compliance with the provisions of this chapter.

SEC. 15. Section 6549.5 of the Business and Professions Code is repealed.

SEC. 16. Section 6549.6 of the Business and Professions Code is amended to read:

6549.6. Upon receipt of a properly completed application to operate a new barbershop, the board shall issue a temporary barbershop permit which shall expire 90 days from the date of issuance. Within 90 days after issuance of the temporary barbershop permit, the board or its agents or assistants shall inspect the

barbershop. No certificate to conduct a barbershop shall be issued unless the shop complies with the applicable requirements of this chapter and the applicable rules and regulations of the board adopted pursuant to this chapter.

SEC. 17. Section 6550 of the Business and Professions Code is amended to read:

6550. (a) No registered apprentice may independently practice barbering, but may as an apprentice do any or all of the acts constituting the practice of barbering under the supervision and employment of a registered barber.

(b) Each shop may employ apprentices in the ratio of one apprentice to each registered barber working in the shop.

(c) Each barbershop owner employing an apprentice and the registered barber supervising an apprentice shall provide the apprentice with a course of instruction consisting of fundamentals of the subjects relating to barbering listed in Section 6535.

(d) Each barbershop owner employing an apprentice and each registered barber instructing an apprentice shall be responsible for providing the necessary equipment for instructing the apprentice in the practical phases of barbering as prescribed by regulations adopted by the board.

SEC. 18. Section 6550.5 of the Business and Professions Code is amended to read:

6550.5. The board shall issue a certificate of registration as an instructor in a barber college to a person who complies with all of the following:

(a) Files an application with the board in such form as it may prescribe, accompanied by the application and examination fees.

(b) Is not subject to denial pursuant to Section 480.

(c) Holds a valid certificate as a registered barber in this state and has one of the following:

(1) Has had two years of experience in this state as a registered barber.

(2) Has had at least two years of experience as a registered barber in another state or country whose requirements for licensing barbers are substantially equivalent to those in this state.

(3) Has affidavits from at least two persons stating that the applicant has had at least four years of practice as a barber in another state or country whose requirements for licensing barbers are not substantially equivalent to those in this state.

(4) Is a registered barber and has completed an approved 400-hour instructor training program within a six-month period in a barber college.

(d) Has completed the 12th grade or the equivalent thereof as determined by an examination conducted by an examining agency approved by the board.

(e) Has paid the certificate fee required by this chapter.

(f) Successfully passes a written examination on the theory of barbering which shall be limited to the following subjects:

(1) Sanitation, antiseptic, sterilization, hygiene, and bacteria.

(2) Shop management, ethics, salesmanship, implements, and the history of barbering.

(3) Laws and regulations governing the practice of barbering.

(4) Common skin and hair diseases of scalp, face, and neck.

(5) Structure and function of the skin and hair of the scalp, face, and neck.

(6) Cosmetics and chemical preparations used in the practice of barbering.

(7) Circulation, muscles, nerves, and cells of the scalp, face, and neck only as subjects are related to massaging or other acts of barbering.

(8) The principles of teaching which are included in the teacher syllabus.

The amendments made to this section at the 1961 Regular Session of the Legislature shall not apply to any person who holds a certificate of registration as an instructor in a barber college on the effective date of the amendments to this section.

SEC. 19. Section 6565 of the Business and Professions Code is amended to read:

6565. Every holder of a certificate of registration shall display it in a conspicuous place adjacent to or near the licensee's work chair.

Failure to display a certificate of registration constitutes a misdemeanor and in addition, a cause for disciplinary action.

SEC. 20. Section 6566 of the Business and Professions Code is amended to read:

6566. The board shall prepare copies of the provisions of this chapter and of the board's rules and regulations which pertain to sanitary requirements applicable to barbershops and barber colleges, and shall furnish to the owner or manager of each barbershop and college one copy thereof to be posted in a conspicuous place in the barbershop or college.

Failure by any owner or manager of a barbershop or barber college to display such copy constitutes a violation of this chapter.

SEC. 21. Section 6567 of the Business and Professions Code is amended to read:

6567. Whenever the certificate issued to a barbershop or a barber college has been suspended or revoked for a violation of the sanitary provisions of this chapter, the board may on a second or subsequent violation post a sign on the shop or barber college stating that the certificate has been suspended or revoked and the reason therefor.

SEC. 22. Section 6575.5 of the Business and Professions Code is amended and renumbered to read:

6571.5. A certificate which has been suspended or revoked shall forthwith be surrendered to the board.

SEC. 23. Section 6576 of the Business and Professions Code is amended and renumbered to read:

6571.6. Conviction of any crime substantially related to the qualifications, functions, and duties of the certificate or registration

holder constitutes a cause for disciplinary action. The record of conviction or a certified copy thereof shall be conclusive evidence of such conviction.

A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this article. The board may order the certificate suspended or revoked, or may decline to issue a certificate, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

SEC. 23.5. Section 6576.5 is added to the Business and Professions Code, to read:

6576.5. The making of any false statement as to a material matter in any oath or affidavit, which is required by the provisions of this chapter, constitutes perjury and is a cause for disciplinary action.

SEC. 24. Section 6578 of the Business and Professions Code is amended and renumbered to read:

6572. Continued practice by a person knowingly having an infectious, contagious or communicable disease constitutes a cause for disciplinary action.

SEC. 25. Section 6579 of the Business and Professions Code is amended and renumbered to read:

6573. Advertising by means of knowingly false or deceptive statements constitutes a cause for disciplinary action.

SEC. 26. Section 6580 of the Business and Professions Code is amended and renumbered to read:

6573.5. Advertising, practicing or attempting to practice under another's name or another's trade name constitutes a cause for disciplinary action.

SEC. 27. Section 6581 of the Business and Professions Code is amended and renumbered to read:

6574. Habitual drunkenness or habitual addiction to the use of any controlled substance constitutes a cause for disciplinary action.

SEC. 28. Section 6583 of the Business and Professions Code is amended and renumbered to read:

6575. Obtaining or attempting to obtain a certificate of registration for money other than the required fee, or any other thing of value, or by fraudulent misrepresentations constitutes a cause for disciplinary action.

SEC. 29. Section 6584 of the Business and Professions Code is amended and renumbered to read:

6575.6. Practicing or attempting to practice by fraudulent misrepresentations constitutes a cause for disciplinary action.

SEC. 30. Section 6586 of the Business and Professions Code is amended and renumbered to read:

6577. The commission of any of the offenses referred to in Section 6550 or in Section 6606 constitute a cause for disciplinary action.

SEC. 31. Section 6586.5 of the Business and Professions Code is amended and renumbered to read:

6578. The commission of any of the following practices constitutes cause for disciplinary action:

(a) The management, operation or control of any barbershop or barber college unless continuously hot and cold running water is provided therein.

(b) The management, operation or control of any barber college or part or portion thereof whether connected therewith or in a separate building wherein the practice of barbering is engaged in or carried on unless all entrances shall display a sign indicating that the work therein is done by students exclusively.

(c) The management, control or operation of any barbershop unless a recognized sign, clearly visible at the main entrance to the shop, is displayed indicating that it is a barbershop.

(d) The use upon one person of a towel that has been used upon another person unless and until said towel has been relaundered.

(e) Failure to provide the head rest on each chair with a relaundered towel or sheet of clean paper for each patron.

(f) Failure to place around the patron's neck a clean strip of cotton, towel or neck band so that the hair cloth does not come in contact with the neck or skin of the patron's body.

(g) The use in the practice of barbering of any styptic pencils, finger bowls, sponges, lump alum or powder puffs. The possession of a styptic pencil, finger bowl, sponge, lump alum or powder puff in a barbershop is prima facie evidence that the same is being used therein in the practice of barbering.

(h) The use on any patron of any combs, tweezers, rubber disks or part of vibrators, or the blades of razors, of shears, of scissors, or of clippers, unless they are disinfected or sterilized immediately before serving the patron by immersion in a solution, or by any other method, approved by the board; the use of razors, shears, scissors, tweezers, and hones which are not kept in a closed compartment when a patron is not being served; or the use of combs which are not kept in an approved solution or in a closed compartment when a patron is not being served. An approved solution or method shall be the equivalent of immersion in a solution of not less than 5 percent phenol (United States Pharmacopoeia).

SEC. 32. Section 6587 of the Business and Professions Code is amended and renumbered to read:

6579. Employing registered barbers or registered apprentices, who fail to display their valid certificates of registration in a conspicuous place adjacent to or near their work chairs, constitutes a cause for disciplinary action.

SEC. 33. Section 6588 of the Business and Professions Code is amended and renumbered to read:

6580. Failure of the owner of a shop or college to keep it and all

furniture, equipment, tools, utensils, floors, walls and ceilings in a clean and sanitary condition or the premises well lighted and well ventilated constitutes a cause for disciplinary action.

SEC. 34. Section 6589 of the Business and Professions Code is repealed.

SEC. 35. Section 6590 of the Business and Professions Code, as amended by Chapter 739 of the Statutes of 1947, is amended and renumbered to read:

6580.1. Failure of the owner of a barbershop or college to have at least two receptacles available for each chair, one for the disposal of used papers and one for the disposal of used linens and failure of a registered barber, apprentice or student to use one exclusively for used papers and the other for used linens, and failure of any registered barber, apprentice or student to deposit used papers and used linens in the receptacles immediately after serving each person constitutes causes for disciplinary action.

SEC. 36. Section 6591 of the Business and Professions Code is amended and renumbered to read:

6582. Failure to wash one's hands immediately before serving each patron constitutes a cause for disciplinary action.

SEC. 37. Section 6592 of the Business and Professions Code, as added by Chapter 118 of the Statutes of 1939, is amended and renumbered to read:

6580.2. Failure to thoroughly rinse shaving mugs and brushes with hot water before each patron is served constitutes a cause for disciplinary action.

SEC. 38. Section 6593 of the Business and Professions Code, as added by Chapter 118 of the Statutes of 1939, is amended and renumbered to read:

6580.3. Failure of the owner of a barbershop or barber college to provide the equipment required for sterilization by this chapter constitutes a cause for disciplinary action.

SEC. 39. Section 6595 of the Business and Professions Code, as added by Chapter 390 of the Statutes of 1953, is amended and renumbered to read:

6584. Refusal to permit or interference with an inspection authorized under Section 6509 of this code constitutes a cause for disciplinary action.

SEC. 40. Section 6596 of the Business and Professions Code is amended and renumbered to read:

6575.7. A violation of, or any attempt to violate, any of the provisions of this chapter by the holder of any certificate, or aiding or abetting any person in violating or attempting to violate any provision of this chapter, constitutes a cause for disciplinary action.

SEC. 41. Section 6601 of the Business and Professions Code is amended to read:

6601. Permitting any person in one's employ, supervision or control to practice as an apprentice or a barber unless that person has a valid certificate of registration as a registered apprentice or

registered barber is unlawful.

SEC. 42. Section 6627 of the Business and Professions Code is amended to read:

6627. A person who fails to renew a certificate within five years after its expiration may not renew it, and it shall not be reinstated, restored or reissued thereafter. Such person may apply for a new certificate, and, except as provided in Section 6627.5, a new certificate of the same class as the expired certificate shall be issued, if:

(1) The applicant is not subject to denial pursuant to Section 480.

(2) No fact, circumstance or condition exists which, if the certificate were issued, would justify its suspension or revocation.

(3) The applicant pays all of the fees in connection with the certificate which would be required if the applicant were then applying for the certificate for the first time.

(4) The applicant takes and passes the examination, if any, which would be required if the applicant were then applying for the certificate for the first time, except that, if the expired certificate was issued without an examination, no examination shall be required.

The board may, by appropriate regulation, provide for the waiver or refund of all or any part of the examination or inspection fee, respectively, payable under this section if no examination is required, or if no inspection is made.

SEC. 43. Section 6627.1 of the Business and Professions Code is amended to read:

6627.1. Ninety days before the expiration of the five-year period provided in Section 6627, the board shall mail to a certificate holder to whom that section applies a written notice advising the certificate holder, in general terms, of its provisions.

SEC. 44. Section 6646 of the Business and Professions Code is amended to read:

6646. The course of instruction in any school approved by the board shall consist of the fundamentals of the following subjects:

(a) Sanitation, antiseptics, sterilization, hygiene and bacteria. Instruction in these subjects shall be limited to their relation to barbering.

(b) Haircutting and shaving.

(c) Massaging of the scalp, face, and neck.

(d) Shampooing, and the applying of hair tonics, hairdressing preparations, and rinses.

(e) Facials and scalp massages or treatments with creams, lotions, oils or other cosmetic preparations either by hand or mechanical appliances, but such appliances shall not be galvanic nor faradic.

(f) Shop management, ethics, salesmanship, implements, and a brief study of the history of barbering.

(g) Laws and regulations governing the practice of barbering.

(h) Common skin and hair diseases of the scalp, face and neck.

(i) The structure and functions of the skin and hair of the scalp, face and neck.

(j) Cosmetic preparations used in the practice of barbering.

(k) Circulation, muscles, nerves and cells of the scalp, face and neck only as such subjects are related to massaging or other acts of barbering.

(*l*) Introduction to coloring, bleaching, relaxing of hair, hairpieces, and chemical waving of the hair.

SEC. 45. 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 1558

An act to amend Sections 8564, 8573, 8574, 8575, 8576, 8583, 8585.6, 8585.7, 8586.3, and 8586.7 of the Fish and Game Code, relating to fish, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

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

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

SECTION 1. Section 8564 of the Fish and Game Code is amended to read:

8564. When the permittee applies for a drift gill net shark and swordfish permit, the permittee shall specify the vessel he or she will use in operations authorized by the permit. Transfer to another vessel shall be authorized by the department upon receipt of a written request from the permittee, accompanied by a transfer fee of one hundred dollars ($100), as follows:

(a) One transfer requested between February 1 and April 30 shall be made by the department upon request and payment of the fee.

(b) Any transfer, except as provided in subdivision (a), shall be authorized by the department only after receipt of proof of a compelling reason, which shall be submitted with the request for transfer, such as the sinking of the vessel specified for use in operations authorized by the permit.

SEC. 2. Section 8573 of the Fish and Game Code is amended to read:

8573. Drift gill nets may be used to take shark and swordfish under the permit provided in this article and are subject to the following restrictions:

(a) From June 1 to November 15, inclusive, shark or swordfish gill nets shall not be in the water from two hours after sunrise to two hours before sunset east of a line described as follows:

From a point beginning at Las Pitas Point to San Pedro Point on Santa Cruz Island, thence to Gull Island Light, thence to the northeast extremity of San Nicolas Island, thence along the high water mark on the west side of San Nicolas Island to the southeast extremity of San Nicolas Island, thence to the northwest extremity of San Clemente Island, thence along the high water mark on the west side of San Clemente Island to the southeast extremity of San Clemente Island, thence along a line running 150° true from the southeast extremity of San Clemente Island to the westerly extension of the boundary line between the Republic of Mexico and San Diego County.

(b) (1) The total maximum length of a shark or swordfish gill net on the net reel on a vessel, on the deck of the vessel, and in the water at any time shall not exceed 6,000 feet in float line length. The float line length shall be determined by measuring the float line, as tied, of all the net panels, excluding the bridle, towline, or stotza and excluding the parachute or other drogue device.

(2) Any shark or swordfish gill net on the reel shall have the float lines of the adjacent panels tied together, the lead lines of the adjacent panels tied together, and the web of the adjacent panels laced together. No quick disconnect device may be used.

(3) Spare shark or swordfish gill net aboard the vessel shall not exceed 250 fathoms (1,500 feet) in total length, and the spare net shall be in separated panels of not to exceed 80 fathoms (480 feet) in float line length for each panel, with the float lines and leadlines attached to each panel separately gathered and tied, and the spare net panels stowed in lockers, wells, or other storage space.

(4) If a torn panel is replaced in a working shark or swordfish gill net, the torn panel shall be removed from the working net before the replacement panel is attached to the working net.

(c) Any end of a shark or swordfish net not attached to the permittee's vessel shall be marked by a pole with a radar reflector. The reflector shall be at least six feet above the surface of the ocean and not less than 10 inches in any dimension except thickness. The permittee's permit number shall be permanently affixed to at least one buoy or float attached to the radar reflector staff. The permit number shall be at least one and one-half inches in height and all markings shall be at least one-quarter inch in width.

(d) For the purposes of this article, "shark or swordfish gill net" means a drift gill net of 14-inch or greater mesh size.

SEC. 3. Section 8574 of the Fish and Game Code is amended to read:

8574. (a) Drift gill nets with mesh size less than 14 inches in stretched mesh shall not be used to take shark and swordfish by permittees operating under a drift gill net shark and swordfish permit, and the permittee shall not have aboard the vessel or in the water a drift gill net with mesh size less than 14 inches and more than 8 inches in stretched mesh.

(b) No permittee shall deploy a drift gill net of less than 14-inch

mesh size at the time that the permittee has a shark or swordfish gill net deployed.

SEC. 4. Section 8575 of the Fish and Game Code is amended to read:

8575. Drift gill nets, used to take shark and swordfish under the permit provided in this article, shall not be used:

(a) From May 1 through July 31, within six nautical miles westerly, northerly, and easterly of the shoreline of San Miguel Island between a line extending six nautical miles west magnetically from Point Bennett and a line extending six nautical miles east magnetically from Cardwell Point and within six nautical miles westerly, northerly, and easterly of the shoreline of Santa Rosa Island between a line extending six nautical miles west magnetically from Sandy Point and a line extending six nautical miles east magnetically from Skunk Point.

(b) From May 1 through July 31, within 10 nautical miles westerly, southerly, and easterly of the shoreline of San Miguel Island between a line extending 10 nautical miles west magnetically from Point Bennett and a line extending 10 nautical miles east magnetically from Cardwell Point and within 10 nautical miles westerly, southerly, and easterly of the shoreline of Santa Rosa Island between a line extending 10 nautical miles west magnetically from Sandy Point and a line extending 10 nautical miles east magnetically from Skunk Point.

(c) From May 1 through July 31, within a radius of 10 nautical miles of the west end of San Nicolas Island.

(d) From July 15 through August 14, in the ocean waters bounded as follows: beginning at Point Mugu, Ventura County; thence in a direct line to Arch Point, Santa Barbara Island; thence in a direct line to the West End of Catalina Island; thence along the northeasterly shoreline of Catalina Island to Church Rock; thence in a direct line to Dana Point, Orange County; and thence northwesterly along the mainland shore to Point Mugu.

(e) From August 15 through September 30, in ocean waters bounded as follows: beginning at Dana Point, Orange County, in a direct line to Church Rock, Catalina Island; thence in a direct line to Point La Jolla, San Diego County; and thence northwesterly along the mainland shore to Dana Point.

(f) From August 15 through September 30, in ocean waters within six nautical miles of the coastline on the northerly and easterly side of San Clemente Island, lying between a line extending six nautical miles west magnetically from the extreme northerly end of San Clemente Island to a line extending six nautical miles east magnetically from Pyramid Head.

(g) From December 15 through January 31, in ocean waters within 25 nautical miles of the mainland coastline.

SEC. 5. Section 8576 of the Fish and Game Code is amended to read:

8576. (a) Drift gill nets shall not be used to take shark or

swordfish from February 1 to April 30, inclusive.

(b) Drift gill nets shall not be used to take shark or swordfish in ocean waters within 75 nautical miles from the mainland coastline between the westerly extension of the California-Oregon boundary line and the westerly extension of the United States-Republic of Mexico boundary line from June 1 to August 14, inclusive.

(c) Subdivisions (a) and (b) apply to any drift gill net used pursuant to a permit issued under Section 8561 or 8681.

(d) Notwithstanding the closure from June 1 through August 14 in subdivision (b), a permittee may land swordfish or thresher shark taken in ocean waters more than 75 nautical miles from the mainland coastline in that period if, for each landing during that closed period, the permittee signs a written declaration under penalty of perjury that the fish landed were taken more than 75 nautical miles from the mainland coastline.

(e) If any person is convicted of falsely swearing a declaration under subdivision (d), in addition to any other penalty prescribed by law, the following penalties shall be imposed:

(1) The fish landed shall be forfeited, or, if sold, the proceeds from the sale shall be forfeited, pursuant to Sections 12159, 12160, 12161, and 12162.

(2) All shark or swordfish gill nets possessed by the permittee shall be seized and forfeited pursuant to Section 8630 or 12157.

(3) The shark or swordfish drift gill net permit shall be revoked by the commission pursuant to Section 8561.

(4) The commercial fishing license of the permittee shall be revoked and is forfeited pursuant to Section 12153.

(f) From May 1 to June 1, inclusive, and from August 15 of the year of issue to January 31, inclusive, of the following year, swordfish may be taken under a permit issued pursuant to this article.

SEC. 6. Section 8583 of the Fish and Game Code is amended to read:

8583. 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 enacted before January 1, 1991, deletes or extends that date.

SEC. 7. Section 8585.6 of the Fish and Game Code is amended to read:

8585.6. (a) Applications for reissuance of a permit issued under this article pursuant to subdivision (c) of Section 8586.2 to persons who hold a permit issued in the previous year under this article which has not been revoked shall be delivered to an office of the department after January 31 and on or before April 1, or mailed to an office of the department with a postmark date after January 31 and on or before April 1.

(b) Applications for a permit issued under this article pursuant to subdivision (d) of Section 8586.2 shall be delivered to an office of the department after April 1 and on or before July 15 or mailed to an office of the department with a postmark date after April 1 and on or before July 15.

SEC. 8. Section 8585.7 of the Fish and Game Code is amended to read:

8585.7. If a drawing is held pursuant to Section 8586.2, it shall be held in the Monterey office of the department on the first Wednesday after August 1.

SEC. 9. Section 8586.3 of the Fish and Game Code is amended to read:

8586.3. A central California drift gill net swordfish permit issued under this article shall be valid unless revoked, from August 15 of the year of issue to January 31 of the following year or, if issued after the beginning of that term, for the remainder thereof. The fee for this permit shall be one hundred fifty dollars ($150).

SEC. 10. Section 8586.7 of the Fish and Game Code is amended to read:

8586.7. Drift gill nets shall not be used under a permit issued under this article from February 1 to August 14, inclusive.

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. This act is an urgency statute necessary for the immediate preservation of 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 operative for the shark and swordfish commercial fishing seasons commencing in 1985, it is necessary that this act take effect immediately.

CHAPTER 1559

An act to add Chapter 6.91 (commencing with Section 25410) to Division 20 of the Health and Safety Code, relating to hazardous materials, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

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

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

SECTION 1. Chapter 6.91 (commencing with Section 25410) is added to Division 20 of the Health and Safety Code, to read:

CHAPTER 6.91. HAZARDOUS MATERIALS DATA

25410. The Legislature finds and declares the following:

(a) Hazardous materials, including hazardous substances and hazardous wastes, are present in the state and pose acute and chronic health risks to individuals who live and work in this state, and who are exposed to these substances as a result of fires, spills, industrial accidents, or other types of releases or emissions.

(b) The people who live and work in this state have a right and a need to know of the use and dangers of hazardous materials in their communities in order to plan for, and respond to, potential exposure to these materials.

(c) Basic information on the location, type, characteristics, and health risks of hazardous materials used, stored, or disposed of in the state is not currently available to firefighters, health officials, planners, elected officials, and residents. There are gaps in the information collected and the data is stored in various formats, thereby limiting its effective use to protect the public health and safety.

(d) Existing state data base computer systems are not capable of effectively exchanging hazardous material information nor are they accessible to state and local agencies which have a need for the information.

25411. As used in this chapter:

(a) "Agency" means the Environmental Affairs Agency.

(b) "Handle" means to use, generate, process, produce, package, treat, store, or dispose of a hazardous material in any fashion.

(c) "Hazardous material" means any of the following materials:

(1) A material listed in subdivision (b) of Section 6382 of the Labor Code.

(2) A material defined in Section 25115, 25117, or 25316.

(3) Any other material which the director determines, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the community.

(d) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment.

(e) "Secretary" means the Secretary of the Environmental Affairs Agency.

25412. The secretary shall prepare and submit to the Governor and the Legislature not later than October 1, 1986, a report which shall include all of the following:

(a) Identification of the kinds of information not presently collected that should be collected for a proper assessment of the immediate and long-term threat to public health and safety and the environment posed by the handling and release of hazardous materials and for adequate release response planning.

(b) Recommendations to convert, change, or add to the existing

state hazardous materials data base to accomplish the following objectives:

(1) Ensure reasonable access by state and local agencies to the information.

(2) Ensure that data is collected and stored under procedures which standardize terms, measurements, and entry format in order to maximize the usability and accessibility of the information by any state or local agency.

(c) Recommendations as to the sources, content, and methods of collection of data for a statewide inventory of the handling of hazardous materials.

(d) Recommendations, with respect to both state computer hardware and software, for the creation of a fully integrated data base system in order to effectively meet the health and safety needs of the public.

25413. (a) The secretary shall, in preparing the report, utilize and build upon any relevant reports and studies on hazardous materials conducted by any state or local agency, committee, or task force. The secretary shall also seek to obtain input from appropriate and knowledgeable persons within and outside of government, including representatives from the field of public health, the academic community, and environmental groups.

(b) The secretary may enter into a contract for any technical needs study or assistance needed to prepare the report.

(c) In preparing the report, the secretary shall give the Legislative Analyst full access to data and all other information upon which the report is based.

25414. The Legislative Analyst shall review the report submitted by the secretary and shall, within six months of the secretary's submittal, make any comments and recommendations to the Legislature regarding the report that the Legislative Analyst deems appropriate. For purposes of the review, the Legislative Analyst may conduct, or contract out, supplemental studies or research which the Legislative Analyst determines are necessary to meet the objectives of this chapter.

SEC. 2. The sum of two hundred ten thousand dollars ($210,000), or so much thereof as may be necessary, is hereby appropriated from the General Fund for the purposes of Chapter 6.91 (commencing with Section 25410) of Division 20 of the Health and Safety Code, allocated as follows:

(a) Two hundred thousand dollars ($200,000) to the Secretary of the Environmental Affairs Agency for preparation of a hazardous materials data report pursuant to Sections 25412 and 25413 of the Health and Safety Code.

(b) Ten thousand dollars ($10,000) to the Legislative Analyst for review of that report and for supplemental studies and research pursuant to Section 25414 of the Health and Safety Code.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within

the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to prepare and review as soon as possible a report on hazardous materials data in futherance of the public health and safety and protection of the environment, it is necessary that this act take effect immediately.

CHAPTER 1560

An act to amend Sections 17202, 17213, 17300, 17301, 17310, 17311, 17312, 17313, 17314, 17314.1, 17320, 17320.1, 17321, 17323, 17330, 17331, 17332, 17333, 17334, 17335, 17336, 17337, 17338, 17339, 17340, 17341, 17342, 17343, 17344, 17345, 17346, 17347, 17348, 17349, 17350, 17602, and 17603 of, to add Sections 17202.1 and 17423 to, to add Chapter 7 (commencing with Section 17700) to Division 6 of, to repeal and add Section 17210 of, and to repeal Sections 17011, 17214, and 17624 of, the Financial Code, relating to escrow agents, and declaring the urgency thereof, to take effect immediately.

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

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

SECTION 1. Section 17011 of the Financial Code is repealed.

SEC. 2. Section 17202 of the Financial Code is amended to read:

17202. (a) At the time of filing an application for an escrow agent's license, the applicant shall deposit with the commissioner a bond satisfactory to the commissioner in the amount of at least twenty-five thousand dollars ($25,000). Thereafter, a licensee shall maintain a bond satisfactory to the commissioner in the amount of: (1) twenty-five thousand dollars ($25,000) if 150 percent of the previous year's average annual trust fund obligations, as calculated under Section 17348, equals two hundred fifty thousand dollars ($250,000) or less; (2) thirty-five thousand dollars ($35,000) if 150 percent of the previous year's average annual trust fund obligations, as calculated under Section 17348, equals at least two hundred fifty thousand one dollars ($250,001) but not more than five hundred thousand dollars ($500,000); or (3) fifty thousand dollars ($50,000) if 150 percent of the previous year's average annual trust fund obligations, as calculated under Section 17348, equals five hundred thousand one dollars ($500,001) or more. The bond shall run to the state for the use of the state and for any person who has cause against the obligor of the bond under the provision of this division. A deposit given instead of the bond required by this section shall not be deemed an asset of the applicant or licensee for the purpose of complying with Section 17210. An applicant or licensee may obtain an irrevocable letter of credit approved by the commissioner in lieu

of the bond.

(b) Escrow agents licensed prior to January 1, 1986, shall comply with the requirements of subdivision (a) on or before July 1, 1986.

SEC. 2.5. Section 17202.1 is added to the Financial Code, to read:

17202.1. An applicant for an escrow agent's license or a licensee may, in lieu of and subject to the same conditions as the bond required by Section 17202, deposit with the commissioner a cash bond in the sum specified in Section 17202. Evidence of the cash bond shall be a deposit in the amount specified in Section 17202 in a bank authorized to do business in this state and insured by the Federal Deposit Insurance Corporation, or an investment certificate or share account in the amount specified in Section 17202 issued by a savings and loan association doing business in this state and insured by the Federal Savings and Loan Insurance Corporation. Those deposits, certificates, or accounts shall be assigned to and accepted and maintained by the commissioner, upon those terms as the commissioner may prescribe, until released by the commissioner, and shall not be deemed an asset of the applicant or licensee for the purpose of complying with Section 17210.

SEC. 3. Section 17210 of the Financial Code is repealed.

SEC. 4. Section 17210 is added to the Financial Code, to read:

17210. (a) An escrow agent licensed on or after January 1, 1986, shall maintain at all times a tangible net worth of fifty thousand dollars ($50,000), including liquid assets of at least twenty-five thousand dollars ($25,000) in excess of current liabilities.

(b) An escrow agent licensed prior to January 1, 1986, shall maintain at all times a tangible net worth according to the following schedule:

(1) Ten thousand dollars ($10,000) from January 1, 1986, through June 30, 1986, including liquid assets of at least ten thousand dollars ($10,000) in excess of current liabilities.

(2) Fifteen thousand dollars ($15,000) as of July 1, 1986, including liquid assets of at least fifteen thousand dollars ($15,000) in excess of current liabilities.

(3) Twenty thousand dollars ($20,000) as of July 1, 1987, including liquid assets of at least twenty thousand dollars ($20,000) in excess of current liabilities.

(4) Twenty-five thousand dollars ($25,000) as of July 1, 1988, including liquid assets of at least twenty-five thousand dollars ($25,000) in excess of current liabilities.

(5) Thirty thousand dollars ($30,000) as of July 1, 1989, including liquid assets of at least twenty-five thousand dollars ($25,000) in excess of current liabilities.

(6) Thirty-five thousand dollars ($35,000) as of July 1, 1990, including liquid assets of at least twenty-five thousand dollars ($25,000) in excess of current liabilities.

(7) Forty thousand dollars ($40,000) as of July 1, 1991, including liquid assets of at least twenty-five thousand dollars ($25,000) in excess of current liabilities.

(8) Forty-five thousand dollars ($45,000) as of July 1, 1992, including liquid assets of at least twenty-five thousand dollars ($25,000) in excess of current liabilities.

(9) Fifty thousand dollars ($50,000) as of July 1, 1993, and thereafter, including liquid assets of at least twenty-five thousand dollars ($25,000) in excess of current liabilities.

(c) The commissioner may determine by rule as to which assets constitute liquid assets and may also determine in an individual case by a specific written ruling whether a particular asset is a liquid asset within the meaning of this section.

(d) In the case of a licensed branch office, a tangible net worth in addition to that required by subdivision (a) shall be maintained at an amount equal to 50 percent of the tangible net worth required by subdivision (a), except that licensees operating or applying for more than one branch office shall maintain an additional tangible net worth of at least 25 percent of the amount required by subdivision (a) for each branch office licensed after the first branch office location.

SEC. 4.5. Section 17213 of the Financial Code is amended to read:

17213. An escrow agent's license is not transferable or assignable. Further, no license may be acquired, either in whole or in part, through stock purchase, foreclosure pursuant to a pledge or hypothecation, or other devices without the consent of the commissioner. Prior to the transfer of 50 percent or more of the shares of an escrow agent, a new application for licensure shall be filed as required by Section 17201.

SEC. 5. Section 17214 of the Financial Code is repealed.

SEC. 6. Section 17300 of the Financial Code is amended to read:

17300. "Fidelity Corporation" means the Escrow Agents' Fidelity Corporation.

SEC. 7. Section 17301 of the Financial Code is amended to read:

17301. "Member" means any person licensed under this division who is required by Section 17312 to be a member of Fidelity Corporation.

SEC. 8. Section 17310 of the Financial Code is amended to read:

17310. (a) It shall be the purpose of Fidelity Corporation to indemnify a member against loss of trust obligations as a result of embezzlement, theft, or mysterious disappearance, subject to the limitations set forth in this chapter.

(b) Fidelity Corporation shall not be liable for any general damages of a member, nor for any punitive damages whatsoever.

(c) The indemnification shall be provided by either:

(1) A fidelity fund established by Fidelity Corporation.

(2) A bond to be approved by the commissioner.

(3) A combination of the fidelity fund and the bond.

SEC. 9. Section 17311 of the Financial Code is amended to read:

17311. Within 180 days after the effective date of this chapter, persons licensed pursuant to the provisions of this division shall establish a corporation under the Nonprofit Mutual Benefit

Corporation Law (Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the Corporations Code) to operate under the name Escrow Agents' Fidelity Corporation. Fidelity Corporation shall not commence operations, other than its organization, unless the board of directors of Fidelity Corporation first determines that sufficient money has been deposited in the fidelity fund and the fidelity bond required by Section 17314 has been purchased and is in effect. Neither the State of California, nor any officer, agent or employee thereof, including, but not limited to, the Department of Corporations, while acting in such capacity, shall be liable in any way for the conduct of Fidelity Corporation, its directors, officers, agents, employees, or members.

SEC. 10. Section 17312 of the Financial Code is amended to read:

17312. Each person licensed pursuant to the provisions of this division shall participate as a member in Fidelity Corporation in accordance with this chapter and rules to be established by the board of directors of Fidelity Corporation. Fidelity Corporation shall not deny membership to any escrow agent holding a valid unrevoked license under the Escrow Law.

SEC. 11. Section 17313 of the Financial Code is amended to read:

17313. The commissioner shall review and approve the articles of incorporation and bylaws of Fidelity Corporation before they are filed with the Secretary of State.

SEC. 12. Section 17314 of the Financial Code is amended to read:

17314. Fidelity Corporation shall pay a member for loss of trust obligations sustained as a result of embezzlement, theft, or mysterious disappearance or because of checks which have not been paid by the drawee bank drawn by the escrow agent on its trust or escrow account resulting from embezzlement, theft, or mysterious disappearance by an officer, director, trustee, stockholder, managing agent, agent, or employee of the escrow agent.

The liability of Fidelity Corporation to be paid from the fidelity fund shall be as follows:

(a) Up to fifty thousand dollars ($50,000) per loss to a member during the first full year of operation of the Fidelity Corporation, for each loss discovered during this period.

(b) Up to one hundred thousand dollars ($100,000) per loss to a member during the second full year of operation of the Fidelity Corporation, for each loss discovered during this period.

(c) Up to one hundred fifty thousand dollars ($150,000) per loss to a member during the third full year of operation of the Fidelity Corporation, and thereafter.

Losses in excess of the amounts covered in subdivisions (a), (b), and (c), shall be covered by a fidelity bond purchased by the Fidelity Corporation on behalf of its members or, when requested by the commissioner, a fidelity bond purchased by the member. Fidelity Corporation shall furnish a good and sufficient bond indemnifying the member against loss of trust obligations as a result of embezzlement, theft, or mysterious disappearance or because of

checks, which have not been paid by the drawee bank, drawn by the escrow agent on its trust or escrow account resulting from embezzlement, theft, or mysterious disappearance by an officer, director, trustee, stockholder, or employee of the escrow agent, in excess of the amounts covered in subdivisions (a), (b), and (c). The bond shall be filed with the commissioner for approval pursuant to Section 17203.1.

The minimum amount of the bond shall be 1 percent of the total average trust obligations of all members as reported to the commissioner pursuant to Section 17348. When the amount of the bond is reduced below 1 percent of the total average trust obligations of all members because of a paid claim, Fidelity Corporation shall immediately purchase an additional bond to increase the bond coverage to 1 percent of the total average trust obligations of all members.

At all times, the bond shall equal 1 percent of the total average trust obligations of all members as reported to the commissioner pursuant to Section 17348.

SEC. 13. Section 17314.1 of the Financial Code is amended to read:

17314.1. Notwithstanding any other provision of this article, Fidelity Corporation shall not be obligated to pay any claim made by a member unless the claim would, except for the dollar amount thereof, be a valid claim under the bond as prescribed by Section 17203.1. The protection to members provided by Fidelity Corporation and by the fidelity bond shall therefore be deemed to be coextensive except as to the dollar amounts as set forth in Section 17314. All defenses available to the insurer under the fidelity bond on any claim shall also be a defense to Fidelity Corporation on any claim brought against the corporation. No one other than a member of Fidelity Corporation is entitled to assert a claim against Fidelity Corporation for losses covered under this article.

SEC. 14. Section 17320 of the Financial Code is amended to read:

17320. Fidelity Corporation shall establish and maintain a fidelity fund as follows:

(a) Upon organization and establishment of the Fidelity Corporation, each member shall pay to Fidelity Corporation a membership fee of two thousand two hundred fifty dollars ($2,250) for each member's licensed location. The membership fee shall be paid in three annual installments of seven hundred fifty dollars ($750) each on or before April 15 of each year.

(b) Each person licensed pursuant to this division who becomes a member subsequent to the organization and establishment of Fidelity Corporation shall pay to Fidelity Corporation a membership fee of two thousand two hundred fifty dollars ($2,250) for each member's licensed location. The first installment of the membership fee of seven hundred fifty dollars ($750) shall also be paid to Fidelity Corporation prior to the time the license is issued by the commissioner for each location. The second and third installments of

the membership fee of seven hundred fifty dollars ($750) each shall be paid on or before May 15 of the first and second year, respectively, subsequent to the year in which the license is issued. Fidelity Corporation shall not deny membership to any escrow agent holding a valid unrevoked license under the Escrow Law. Each person licensed pursuant to this division who becomes a member on or after January 1, 1986, shall pay the membership fee in one installment at the time of applying for membership.

(c) A member who is granted authority by the commissioner to establish additional licensed locations shall pay to Fidelity Corporation, at the same time the authority is granted by the commissioner, the first installment of the membership fee for each licensed location. The second and third installments of the membership fee of seven hundred fifty dollars ($750) shall be paid on or before May 15 of the first and second years, respectively, subsequent to the year in which the authority is granted by the commissioner. Each person who is granted authority by the commissioner to establish additional licensed locations on or after January 1, 1986, shall pay the membership fee in one installment at the time the authority is granted.

(d) For the purpose of the annual assessment of each member to maintain the fidelity fund, Fidelity Corporation shall establish a fidelity fund account for each member, which shall require a cash payment from each member equal to the greater of the membership fee for each licensed location or 1 percent of the member's monthly average trust obligations as reported to the commissioner pursuant to Section 17348.

For those licensed persons who became members before January 1, 1986, if, on May 15 of the fourth year of membership and thereafter, the member's fidelity fund account does not equal the greater of the membership fee for each licensed location or 1 percent of the member's monthly average trust obligations, then Fidelity Corporation shall assess the member as follows:

(1) First, the remaining annual installments on the membership fee as set forth above.

(2) Then, after the membership fee is paid in full, an amount based on the member's average monthly trust obligations as follows:

(A) One-half of 1 percent of the average monthly trust obligations up to five hundred thousand dollars ($500,000) plus

(B) One-fourth of 1 percent of the average monthly trust obligations from five hundred thousand one dollars ($500,001) to one million dollars ($1,000,000) plus

(C) One-eighth of 1 percent of the average monthly trust obligations in excess of one million dollars ($1,000,000).

For those licensed persons who become members on or after January 1, 1986, if the member's fidelity fund account does not equal the greater of the membership fee for each licensed location or 1 percent of the member's monthly average trust obligations on May 15 of the first year subsequent to the year in which the license is

issued, and thereafter, Fidelity Corporation shall assess the member as set forth in paragraph (2) of subdivision (d).

Provided, however, in no event will a member be required to pay an annual assessment greater than one thousand dollars ($1,000) per licensed location.

(e) Whenever Fidelity Corporation is requested by a member to pay that member for loss of trust obligations as a result of embezzlement, theft, or mysterious disappearance, Fidelity Corporation shall pay its liability from the fidelity fund under Section 17314 by first charging the requesting member's fidelity fund account and then, to the extent that the member's fidelity fund account is insufficient to satisfy the claim, Fidelity Corporation shall charge the fidelity fund accounts of all members by an amount determined by the following formula: an amount resulting from multiplying the balance of the claim by a number, the numerator of which is a member's fidelity fund account and the denominator of which is the total of all members' fidelity fund accounts. Thereafter, Fidelity Corporation shall immediately assess the member filing the claim the amount charged to that member's fidelity fund account and immediately assess all members the amount charged to their fidelity fund accounts, if any, as provided for in Section 17321.

(f) In the event the amount in the fidelity fund equals 2 percent or more of the total average trust obligations for all members as reflected in the most recent report required by Section 17348, Fidelity Corporation may credit to each member an amount in the fidelity fund in excess of 1½ percent of the total trust obligations of all members. The amount which may be credited to each member shall be an amount equal to the ratio of the member's fidelity fund account to the total amount of all members' fidelity fund accounts. If a member has not paid any assessment or has not paid the full amount of any assessment or a membership fee, the amount to be credited shall first be applied to pay the member's unpaid assessment or membership fee liability.

(g) The membership fee may be considered a tangible asset of the member in all financial statements.

(h) Whenever any member has surrendered its license to engage in business as an escrow agent (and the commissioner has accepted the surrender of the license), and the member has disbursed its trust obligations in accordance with the requirements of the Escrow Law and escrow instructions, a member may request Fidelity Corporation to refund to the member the balance of its fidelity fund account. The member's fidelity fund account shall be refunded in accordance with Fidelity Corporation's bylaws. However, no refund shall be made to any member sooner than 24 months and one day from the date of acceptance of surrender of the license by the commissioner.

SEC. 15. Section 17320.1 of the Financial Code is amended to read:

17320.1. Notwithstanding Section 17311, Fidelity Corporation shall bill and collect from each member the first annual installment

of the membership fee, which shall be paid within 30 days from the effective date of this section. If the member fails to pay the first annual installment of the membership fee on or before the expiration of such 30-day period, the membership fee shall become delinquent and the commissioner may by order summarily suspend or revoke the certificate to engage in business as an escrow agent issued to the member. If, after such an order is made, a request for a hearing is filed in writing and a hearing is not held within 60 days thereafter, the order is deemed rescinded as of its effective date. During any period when its certificate is revoked or suspended, a member shall not conduct business pursuant to this division except as may be permitted by order of the commissioner; provided, however, that neither the revocation, suspension, or surrender of a certificate shall affect the powers of the commissioner as provided in this division.

SEC. 16. Section 17321 of the Financial Code is amended to read:

17321. Fidelity Corporation shall send a written notice of assessment to each member assessed within 30 days after the levy of any assessment. Amounts assessed shall be paid to Fidelity Corporation by each member assessed not later than 90 days following written notice of assessment.

In the event that Fidelity Corporation has extraordinary expenses or claims paid from the fidelity fund during any fiscal year which reduces the fidelity fund by 25 percent or more and the reduction would result in the fidelity fund being less than 1 percent of the total trust obligations of all members, Fidelity Corporation shall immediately levy an assessment on each member to replenish the fidelity fund by an amount charged to each member's account pursuant to the method set forth in Section 17339; provided, the assessment limitation of one thousand dollars ($1,000) per year per location shall not apply.

SEC. 17. Section 17323 of the Financial Code is amended to read:

17323. In the event any member fails to pay an assessment when due, Fidelity Corporation shall report the default in writing to the commissioner within 24 hours of the default, and shall within 30 days after default bring an action in law or in equity to enforce payment. If Fidelity Corporation does not bring such an action within the time specified, the commissioner may bring an action in law or in equity to enforce such payment.

SEC. 18. Section 17330 of the Financial Code is amended to read:

17330. Any member who suffers a loss of trust obligations due to embezzlement, theft, or mysterious disappearance may file a claim with Fidelity Corporation for the amount of the loss.

SEC. 19. Section 17331 of the Financial Code is amended to read:

17331. Fidelity Corporation shall not, in any one calendar year, be required to pay any claims that exceed in the aggregate the total in the fund after allowance for all amounts to be added to all members' accounts during the year by assessment as provided in this chapter. With the written consent of the commissioner, Fidelity Corporation shall have the authority to borrow against future assessments to pay

claims which exceed in the aggregate the total amount in the fund.

SEC. 20. Section 17332 of the Financial Code is amended to read:

17332. When either Fidelity Corporation or the insurer providing the fidelity bond under Section 17314, or both, pay an obligation on behalf of a member, Fidelity Corporation and the insurer shall be subrogated to the rights, claims, and remedies of the member up to the amount paid by Fidelity Corporation and the insurer on behalf of the member. In any subrogation action filed by Fidelity Corporation, the provider of the fidelity bond if payment was made thereunder, or both, Fidelity Corporation shall have the first right to the proceeds of any judgment or settlement obtained against the subrogees, up to the amount actually paid on the claim by Fidelity Corporation, plus reasonable costs and attorney's fees if awarded as part of any judgment. Amounts recouped by Fidelity Corporation through subrogation, minus all costs, attorney's fees, and other administrative expenses incurred in obtaining that recovery, shall be credited to members' accounts in proportion to the amounts charged and paid by those members pursuant to subdivision (e) of Section 17320; except for any punitive damages, which shall be deposited into the members' fidelity fund and used for payment of future claims, however no member's account shall receive any credit therefor.

SEC. 21. Section 17333 of the Financial Code is amended to read:

17333. The commissioner may forthwith take possession of the property and business of Fidelity Corporation and retain possession until Fidelity Corporation satisfies the commissioner that it will operate in conformity with this chapter whenever it appears to the commissioner that Fidelity Corporation has done any of the following:

(a) Violated its articles of incorporation or any law of this state.

(b) Invested its funds in violation of Section 17337.

(c) Not levied assessments as required by Sections 17320 and 17321.

(d) Has not brought and diligently prosecuted an action to enforce payment as required by Section 17323.

(e) Violated any section of this chapter.

(f) Neglected or refused to submit its books, papers, and affairs to the inspection of the commissioner.

During the time the commissioner has possession he shall perform the duties and carry out the obligations of Fidelity Corporation.

SEC. 22. Section 17334 of the Financial Code is amended to read:

17334. Whenever the commissioner has taken possession of the property and business of Fidelity Corporation, Fidelity Corporation within 10 business 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 Fidelity Corporation is located to enjoin further proceedings. 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 Fidelity Corporation, or make a further order as may be just.

SEC. 23. Section 17335 of the Financial Code is amended to read:

17335. An appeal may be taken from the judgment of the court by the commissioner or by Fidelity Corporation in the manner provided by law for appeals from the judgment of a superior court. An appeal from the judgment of the court does not operate as a stay of the judgment unless the court, on good cause, so orders. No bond need be given if the appeal is taken by the commissioner, but if the appeal is taken by Fidelity Corporation a bond shall be given as required by Sections 917.2 and 917.5 of the Code of Civil Procedure as a condition to any stay.

SEC. 24. Section 17336 of the Financial Code is amended to read:

17336. (a) Fidelity Corporation shall have independent authority to investigate claims filed by members pursuant to Section 17330.

(b) Fidelity Corporation, with the written consent of the commissioner, may conduct an examination or investigation of the business practices of a member's handling and processing of trust obligations. The result of any investigation shall be reported to the commissioner together with the recommendations of the Board of Directors of Fidelity Corporation.

(c) Fidelity Corporation may submit reports and make recommendations to a member on its findings as a result of an examination or investigation conducted pursuant to this section. These reports and recommendations shall not be public documents. A copy of all reports and recommendations shall be furnished to the commissioner by Fidelity Corporation. There shall be no liability on the part of, and no cause of action of any nature shall arise against, Fidelity Corporation or its members, directors, officers, employees, stockholders, or agents or the commissioner or commissioner's authorized representatives for any statements made by them in any reports or recommendations made hereunder.

(d) With the written consent of a majority of its directors and the commissioner, Fidelity Corporation, in order to fulfill its obligations under this section, may appoint an independent certified public accountant or public accountant or hire or appoint a specialized committee or employees to conduct an examination or investigation authorized by this section. Any reports as a result thereof shall be furnished to the commissioner pursuant to the provisions of subdivision (c).

(e) For the purposes of conducting an examination or investigation, Fidelity Corporation or its appointee shall have free access to the offices and places of business, books, accounts, papers, records, files, safes and vaults of the member.

(f) Costs and expenses for such examination or investigation shall be paid by Fidelity Corporation.

(g) Fidelity Corporation, any member of Fidelity Corporation, an agent of Fidelity Corporation or of its members, or any person who

uses any information obtained under this section for any purpose not authorized herein is guilty of a misdemeanor.

SEC. 25. Section 17337 of the Financial Code is amended to read:

17337. Fidelity Corporation may invest its funds only as provided by rules of the commissioner adopted with a view to preserving reasonable liquidity.

Upon request of the commissioner, Fidelity Corporation shall furnish an authorization for disclosure to the commissioner of financial records of funds pursuant to Section 7473 of the Government Code.

SEC. 26. Section 17338 of the Financial Code is amended to read:

17338. Income from investments shall be recorded in an income account and be used to defray expenses of administration. Income from investments that exceeds an amount determined by the board of directors to be adequate to provide for current expenses may be credited to members' accounts. Each member's account shall receive credit ratably based on the account balance, for the amount of the excess. Income received by Fidelity Corporation, whether or not credited to members' accounts, shall be subject to a claim filed by a member made pursuant to Section 17330 except as to that portion reserved by the board of directors for expenses of administration during the calendar year.

SEC. 27. Section 17339 of the Financial Code is amended to read:

17339. Expenses of administration that exceed income from investments at the end of the year shall be charged to members' accounts. Each member's account shall be charged by an amount equal to the ratio of the member's fidelity fund account to the total of all members' fidelity fund accounts. Prior to incurring any extraordinary or nonrecurring expense, Fidelity Corporation shall first obtain the written consent of the commissioner.

SEC. 28. Section 17340 of the Financial Code is amended to read:

17340. Fidelity Corporation, with the commissioner's written consent, may borrow funds when necessary to effectuate the provisions of this chapter.

SEC. 29. Section 17341 of the Financial Code is amended to read:

17341. The commissioner shall give prompt notice to Fidelity Corporation when the commissioner takes possession of the property and business of a member and shall give further prompt notice when the commissioner determines to liquidate the property and business of a member.

SEC. 30. Section 17342 of the Financial Code is amended to read:

17342. Memberships issued by Fidelity Corporation shall be nontransferable and shall be exempt from the provisions of the Corporate Securities Law of 1968.

SEC. 31. Section 17343 of the Financial Code is amended to read:

17343. No provision of the Insurance Code shall apply to Fidelity Corporation.

SEC. 32. Section 17344 of the Financial Code is amended to read:

17344. The operation of Fidelity Corporation shall at all times be

subject to the regulation of the commissioner and the commissioner's duly designated representatives. 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 Fidelity 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 Fidelity Corporation.

SEC. 33. Section 17345 of the Financial Code is amended to read:

17345. Any member aggrieved by any action or decision of Fidelity Corporation may appeal to the commissioner within 30 days from the action or decision.

The commissioner's decision on appeal shall be made within 60 days from the date of the appeal and shall be considered final.

SEC. 33.5. Section 17346 of the Financial Code is amended to read:

17346. (a) Fidelity Corporation and its members shall not 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 a guarantee of trust obligations without first obtaining the written approval of the commissioner.

(b) Any advertising referring to Fidelity Corporation shall state in type not smaller than the largest size of type used in the body of the advertisement: "Escrow Agents' Fidelity Corporation is a private corporation and is not an agency or other instrumentality of the State of California."

(c) Neither Fidelity Corporation nor its members shall advertise that trust obligations of escrow agents are "protected," "guaranteed," "insured" or use words to that effect.

SEC. 34. Section 17347 of the Financial Code is amended to read:

17347. (a) The Secretary of State shall not file articles for the incorporation of Fidelity Corporation or an amendment to the articles unless the commissioner has issued a written approval of the articles or amendment.

(b) Fidelity Corporation shall not adopt any bylaws or amendments thereto without the written consent of the commissioner.

SEC. 35. Section 17348 of the Financial Code is amended to read:

17348. In order to permit Fidelity Corporation to fulfill its obligation under this chapter, the commissioner shall furnish a list of all persons licensed under this division as of December 31 of each year and a copy of an escrow liability schedule filed with the commissioner. Each member on or before February 15 shall furnish to the commissioner a schedule of its escrow liability as of the last day of each month for the preceding 12 months which ended December 31. The schedule shall be in the form and contain such information as the commissioner may require.

SEC. 36. Section 17349 of the Financial Code is amended to read:

17349. If Fidelity Corporation is dissolved, subject to the approval of the commissioner, the net assets after settling all liabilities shall be distributed to the members on the basis of the number of each member's licensed locations compared to the total number of all members' licensed locations.

SEC. 37. Section 17350 of the Financial Code is amended to read:

17350. All costs and expenses incurred by the commissioner in the administration of this chapter shall be paid to the commissioner by Fidelity Corporation. The limitation on the total assessment for each year set forth in paragraph (1) of subdivision (e) of Section 17207 shall not apply to Fidelity Corporation's payment of costs and expenses incurred by the commissioner in the administration of this chapter. The commissioner may institute an action for the recovery of costs and expenses incurred in the administration of this chapter in any court of competent jurisdiction.

SEC. 38. Section 17423 is added to the Financial Code, to read:

17423. (a) The commissioner may, after appropriate notice and opportunity for hearing, by order, censure or suspend for a period not exceeding 12 months, or bar from any position of employment or management of, any escrow agent, any officer, director, or employee of, or person performing similar functions for, an escrow agent, if the commissioner finds either of the following:

(1) That the censure, suspension, or bar is in the public interest and that the person has committed a violation of this division or rule or order of the commissioner, which violation was either willful or has caused material damage to the escrow agent.

(2) That the officer, director, employee of, or person performing similar functions for, an escrow agent, has been convicted of, or pleaded nolo contendere to, a crime, or has been held liable in a civil action by final judgment, if the crime or civil action involved fraud, embezzlement, fraudulent conversion, or misappropriation of property.

(b) Upon receipt of a notice of intention to issue an order pursuant to this section, the person who is the subject of the proposed order is immediately prohibited from disbursing any trust funds in the escrow agent's possession, custody or control, and the financial institution holding trust funds shall be so notified by service of the notice, accusation and other administrative pleadings. The prohibition against disbursement of trust funds may be set aside, in whole or in part, by the commissioner for good cause.

SEC. 39. Section 17602 of the Financial Code is amended to read:

17602. If it appears to the commissioner that any licensed escrow agent has violated its articles of incorporation, or any law or rule binding upon it, the commissioner shall, by written order addressed to the agent direct the discontinuance of such violation. The order shall be effective immediately, but shall not become final except in accordance with the provisions of Section 17604.

SEC. 40. Section 17603 of the Financial Code is amended to read:

17603. If it appears to the commissioner that any licensed escrow

agent is conducting business in an unsafe or injurious manner, the commissioner shall, by written order addressed to the agent direct the discontinuance of such unsafe or injurious practices. The order shall be effective immediately, but shall not become final except in accordance with the provisions of Section 17604.

SEC. 41. Section 17624 of the Financial Code is repealed.

SEC. 42. Chapter 7 (commencing with Section 17700) is added to Division 6 of the Financial Code, to read:

CHAPTER 7. CRIMES AND CIVIL PENALTIES

17700. Any person who willfully violates any provision of this division, or who willfully violates any rule or order under this division, shall, upon conviction, be fined not more than ten thousand dollars ($10,000), or imprisoned in the state prison for one year or more or in a county jail for not more than one year, or be punished by both such fine and imprisonment, but no person may be imprisoned for the violation of any rule or order unless he or she had knowledge of the rule or order. Conviction under this section shall not preclude the commissioner from exercising the authority provided in Section 17423.

17701. (a) Any person who violates any provision of this division, or who violates any rule or order under this division, shall be liable for a civil penalty not to exceed two thousand five hundred dollars ($2,500) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the commissioner in any court of competent jurisdiction.

(b) As applied to the penalties for acts in violation of this division, the remedies provided by this section and by other sections of this division are not exclusive, and may be sought and employed in any combination to enforce the provisions of this division.

SEC. 43. 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. 44. By January 1, 1988, the Commissioner of Corporations shall submit to the Legislature a report discussing the necessity of, and basis for, an increase in tangible net worth of licensed escrow agents above twenty-five thousand dollars ($25,000). The commissioner, in the report, may discuss alternatives to the tangible net worth increases above twenty-five thousand dollars ($25,000) required by Section 17210 of the Financial Code, including, but not limited to, tangible net worth above twenty-five thousand dollars ($25,000) being based on a percentage of gross income or trust fund obligations of an escrow account.

SEC. 45. Sections 2, 3, and 4 of this act shall become operative on

January 1, 1986.

SEC. 46. This act is an urgency statute necessary for the immediate preservation of 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 the formation of the Escrow Agents' Guaranty Corporation over two years ago, trust fund losses have been unprecedented in both the number and amount. Additionally, the number of violations of the Escrow Law has also increased substantially. Studies by the Department of Corporations and the Escrow Agents' Guaranty Corporation concluded that for the continued viability of the independent escrow company business, it is necessary that the Escrow Law be amended at the earliest possible time to do all of the following:

(a) Increase the financial stake an individual has in the licensed business.

(b) Authorize substantial administrative, civil, and criminal sanctions for violations of the Escrow Law, the rules of the Commissioner of Corporations, and orders issued thereunder.

(c) Increase the funding and powers of the Escrow Agents' Guaranty (Fidelity) Corporation, a nonprofit, private corporation whose membership consists of licensed escrow agents and which is organized for the purpose of providing fidelity bond coverage to its members.

CHAPTER 1561

An act to add and to repeal Section 2884 of the Public Utilities Code, relating to public utilities.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. (a) The Legislature hereby finds and declares as follows:

(1) Information-access telephone services which are provided for a charge to callers through the recently instituted "976" telephone number prefix are becoming prevalent throughout California due to rapid development of telecommunications technologies and aggressive marketing by telephone corporations and information access service providers. These services, which include not only recorded messages and information but also interactive computer programs and which operate pursuant to special tariffs on a charge-per-call basis provide revenue for both the services provider and the telephone corporation.

(2) There have been instances of deceptive advertising and

questionable marketing practices involving these toll telephone services with the result that persons placing these calls, including children, have done so without realization that charges would apply.

(3) The Public Utilities Commission is presently conducting an investigation into the operations of information-access telephone services to determine whether they represent a valid and proper type of business required by the people of California, and whether remedies for present abuses and excesses of the system should be developed.

(b) It is, therefore, the intent of the Legislature, in enacting this act, to declare that the right of the people to use information-access telephone services includes the right of residential telephone subscribers to reasonable protections from receiving messages which they determine to be inappropriate for themselves or for their families and from being levied with charges for the inadvertent, mistaken, or uniformed use of these services, especially by children. It is the further intent of the Legislature that the Public Utilities Commission diligently pursue its investigation into the conduct of information-access telephone services in accordance with the additional requirements contained in Section 2 of this act.

SEC. 2. Section 2884 is added to the Public Utilities Code, to read:

2884. (a) The commission shall, pursuant to its existing authority, by rule or order, establish procedures governing telephone corporation billing practices and operations to require every telephone corporation, on and after July 1, 1986, or on and after another date or dates which the commission finds and determines to be appropriate and feasible with respect to the capability of particular telephone equipment, to offer residential subscribers the option of deleting access to a class of information-access telephone service, commonly referred to as "976 service," whereby recorded commercial, informational, or public service messages, interactive computer programs, and other services, are furnished for a charge, in addition to the basic local exchange charge, to the person calling. The commission shall specify a method or methods for telephone corporations to institute this deletion of access option for residential subscribers, taking into consideration the operational requirements of the various types of telephone equipment in use throughout the state. The commission shall further establish a charge to the subscriber, of not to exceed five dollars ($5), for the exercise of this option, and the commission shall require that any unrecompensed expenses in this regard be borne by providers of information-access telephone services rather than residential telephone subscribers.

(b) The commission shall require telephone corporations and providers of information-access telephone services to institute a method of handling subscriber complaints concerning these services, which shall include provision for a waiver of certain or all of the charges for these services for a first occasion of their inadvertent or mistaken use.

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 date on which it becomes inoperative and is repealed.

SEC. 3. (a) The Public Utilities Commission shall, pursuant to its current investigation into the operations of information-access telephone services, also investigate and adopt necessary rules or orders concerning the following matters related to information-access services:

(1) Whether, by statute or by rule or order of the commission, any costs of deleting access to information-access telephone services in excess of five dollars ($5) per request may be passed on to those providers of information-access telephone services whose services generate the most requests for access deletion.

(2) Whether to institute requirements for, or restrictions upon, advertising of the services of providers of information-access services.

(3) Whether to determine which services are authorized and which are prohibited to be offered by a provider of information-access services.

(4) Whether a separate tariff should be required for the furnishing of interactive computer programs by a provider of information-access services.

(5) Whether telephone corporations should be permitted or directed to review the content of messages proposed to be offered by providers of information-access services and to permit or deny the offering of any service based on the content of the message.

(b) The commission shall complete its investigation and report to the Legislature thereon on or before March 1, 1986.

CHAPTER 1562

An act to add and repeal Section 8690.6 of the Government Code, relating to states of emergency, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

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

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

SECTION 1. Section 8690.6 is added to the Government Code, to read:

8690.6. (a) There is hereby established in the Reserve for Economic Uncertainties a Disaster Response-Emergency Operations Account. Moneys in the account shall be allocated by the Director of Finance, upon an order of the Governor, to any state agencies for costs incurred related to emergencies declared by the Governor. For purposes of this section, an "emergency" means a fire, flood, storm,

tidal wave, earthquake or similar public calamity.

(b) The Director of Finance shall allocate funds pursuant to this section in accordance with Section 28 of the annual Budget Act.

(c) This section shall become inoperative on June 30, 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. The sum of twenty million dollars ($20,000,000) is hereby appropriated from the Reserve for Economic Uncertainties to the Disaster Response-Emergency Operations Account 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 funds shall be made available to provide immediate aid and assistance during a state of emergency, it is necessary that this act take effect immediately.

CHAPTER 1563

An act to add Section 11485 to, and to add and repeal Section 11361.8 of, the Health and Safety Code, relating to controlled substances, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

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

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

SECTION 1. Section 11361.8 is added to the Health and Safety Code, to read:

11361.8. The Legislature finds and declares that the level of marijuana production in rural counties in this state and the criminality and violence associated with its production threaten the well-being not only of citizens of these counties, but of the rest of the state as well. Since some of these counties have experienced less growth in their general purpose revenues than the rest of the state and yet bear the burden of funding eradication efforts, the Legislature recognizes the need for the state to provide financial assistance for the law enforcement, criminal justice, and other costs associated with marijuana production.

This section shall remain in effect only until July 1, 1988, and as of that date is repealed.

SEC. 2. Section 11485 is added to the Health and Safety Code, to read:

11485. Any peace officer of this state who, incident to a search

under a search warrant issued for a violation of Section 11358 with respect to which no prosecution of a defendant results, seizes personal property suspected of being used in the planting, cultivation, harvesting, drying, processing, or transporting of marijuana, shall, if the seized personal property is not being held for evidence or destroyed as contraband, and if the owner of the property is unknown or has not claimed the property, provide notice regarding the seizure and manner of reclamation of the property to any owner or tenant of real property on which the property was seized. In addition, this notice shall be posted at the location of seizure and shall be published at least once in a newspaper of general circulation in the county in which the property was seized. If, after 90 days following the first publication of the notice, no owner appears and proves his or her ownership, the seized personal property shall be deemed to be abandoned and may be disposed of by sale to the public at public auction as set forth in Article 1 (commencing with Section 2080) of Chapter 4 of Title 6 of Part 4 of Division 3 of the Civil Code, or may be disposed of by transfer to a government agency or community service organization. Any profit from the sale or transfer of the property shall be expended for investigative services with respect to crimes involving marijuana.

SEC. 3. The sum of one million two hundred fifty thousand dollars ($1,250,000) is hereby appropriated from the General Fund to the Controller for the 1985–86 fiscal year to be distributed to counties for costs associated with marijuana production on or before October 1, in accordance with the following schedule:

Schedule:

(a) Humboldt County	$425,000
(b) Mendocino County	$425,000
(c) Trinity County	$150,000
(d) Butte County	$250,000

SEC. 4. The sum of one million six hundred eighty-four thousand dollars ($1,684,000) is appropriated from the General Fund in accordance with the following schedule, for the following purposes:

(a) Five hundred thousand dollars ($500,000) to the sheriff's department of Humboldt County for marijuana investigation and eradication.

(b) Five hundred thousand dollars ($500,000) to the sheriff's department of Mendocino County for marijuana eradication.

(c) Two hundred fifty thousand dollars ($250,000) to the sheriff's department of Trinity County for marijuana eradication.

(d) Two hundred fifty thousand dollars ($250,000) to the sheriff's department of Butte County for marijuana eradication.

(e) Eighty-nine thousand dollars ($89,000) to the Office of Criminal Justice Planning for allocation under the California Major narcotic Vendors Prosecution Law (Chapter 9 (commencing with Section 13880) of Title 6 of Part 4 of the Penal Code) to the office

of the district attorney of Butte County for the prosecution of crimes involving marijuana.

(f) Eighty-nine thousand dollars ($89,000) to the Office of Criminal Justice Planning for allocation under the California Major Narcotic Vendors Prosecution Law (Chapter 9 (commencing with Section 13880) of Title 6 of Part 4 of the Penal Code) to the office of the district attorney of Trinity County for the prosecution of crimes involving marijuana.

(g) Six thousand dollars ($6,000) to the Department of Fish and Game for allocation to the Wildlife Protection Branch for the publication of a brochure for distribution with hunting and fishing licenses, to alert persons who fish or hunt to the dangers in and around marijuana gardens.

(h) Of the sums appropriated in subdivisions (e) and (f), the Office of Criminal Justice Planning may retain up to 5 percent for administrative expenditures.

SEC. 5. Notwithstanding Section 19888.1 of the Government Code, or any regulations promulgated pursuant to that section, the Attorney General may make emergency appointments to the Campaign Against Marijuana Planting, the duration of which may exceed 60 working days, but shall not exceed 100 working days.

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 effectively reduce the widespread cultivation, sale, and use of marijuana and the occurrence of marijuana-related crimes without delay, it is necessary that this bill go into immediate effect.

CHAPTER 1564

An act to add Sections 17053.7 and 24330 to, the Revenue and Taxation Code, and to add and repeal Section 328 of the Unemployment Insurance Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. This act may be referred to as the "California Jobs Tax Credit Act of 1985."

SEC. 2. It is the purpose of this act to continue a program which encourages, through the use of state tax credits, the private sector employment of economically disadvantaged and disabled Californians, including refugees, who are dependent upon public aid. It is apparent to the Legislature that private sector jobs for California

recipients of Aid to Families with Dependent Children, Supplemental Security Income/State Supplementary Program for the Aged, Blind, and Disabled, Refugee Cash Assistance, and General Assistance will not only provide income to these individuals but will at the same time save California tax dollars that would otherwise be spent on public assistance. It is also apparent to the Legislature that a tax credit program will provide incentives to private sector employers to hire public assistance recipients.

It is the expectation of the Legislature that the revenue reduction resulting from the tax credits provided herein and the administrative costs of the tax credit program will be more than offset by the reduction in public aid expenditures. It is therefore the intent of the Legislature that every effort be made to maximize participation in this program.

SEC. 3. Section 17053.7 is added to the Revenue and Taxation Code, to read:

17053.7. (a) There shall be allowed as a credit against the "net tax" (as defined by Section 17039) an amount equal to 10 percent of the amount of wages paid to each employee who is certified by the Employment Development Department to meet the requirements of Section 328 of the Unemployment Insurance Code.

The credit under this section shall not apply to an individual unless, on or before the day on which that individual begins work for the employer, the employer:

(1) Has received a certification from the Employment Development Department, or

(2) Has requested in writing that certification from the Employment Development Department.

For the purposes of this subdivision, if on or before the day on which the individual begins work for the employer, the individual has received from the Employment Development Department a written preliminary determination that he or she is a member of a targeted group, then the requirement of paragraph (1) or (2) shall be applicable on or before the fifth day on which the individual begins work for the employer.

(b) The credit under this section shall not apply to wages paid in excess of three thousand dollars ($3,000) during a taxable year by a taxpayer to the same individual. With respect to each qualified employee, the aggregate credit under this section shall not exceed six hundred dollars ($600).

(c) The credit under this section shall not apply to wages paid to an individual:

(1) Who is a dependent, as described in Section 17056, of the taxpayer; or

(2) Who, if the taxpayer is an estate or trust, is a grantor, beneficiary, or fiduciary of the estate or trust, or is a dependent, as described in Section 17056, of a grantor, beneficiary, or fiduciary of the estate or trust.

(d) The credit under this section shall not apply to wages paid to

an individual if, prior to the hiring date of that individual, that individual has been employed by the employer at any time during which he or she was not certified by the Employment Development Department to meet the requirements of Section 328 of the Unemployment Insurance Code.

(e) If the certification of an employment has been revoked pursuant to subdivision (c) of Section 328 of the Unemployment Insurance Code, the credit under this section shall not apply to wages paid by the employer after the date on which notice of revocation is received by the employer.

(f) The credit under this section shall be in addition to any deduction under this part to which the taxpayer may be entitled, if any.

(g) The credit provided by this section shall be applied to wages paid to each qualifying employee during the 24-month period beginning on the date such employee begins working for the taxpayer.

(h) The term "wages" shall not include any amounts paid or incurred to an individual who begins work for the employer after December 31, 1985, or the same date specified for the same purpose for purposes of the federal Targeted Jobs Tax Credit program (if that program is extended beyond December 31, 1985), whichever is later.

SEC. 4. Section 24330 is added to the Revenue and Taxation Code, to read:

24330. (a) There shall be allowed as a credit against the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) an amount equal to 10 percent of the amount of wages paid to each employee who is certified by the Employment Development Department to meet the requirements of Section 328 of the Unemployment Insurance Code.

The credit under this section shall not apply to an individual unless, on or before the day on which that individual begins work for the employer, the employer:

(1) Has received a certification from the Employment Development Department, or

(2) Has requested in writing that certification from the Employment Development Department.

For purposes of this subdivision, if on or before the day on which the individual begins work for the employer, the individual has received from the Employment Development Department a written preliminary determination that he or she is a member of a targeted group, then the requirement of paragraph (1) or (2) shall be applicable on or before the fifth day on which the individual begins work for the employer.

(b) The credit under this section shall not apply to wages paid in excess of three thousand dollars ($3,000) during an income year by a taxpayer to the same individual. With respect to each qualified employee, the aggregate credit under this section shall not exceed *six* hundred dollars ($600).

(c) The credit under this section shall not apply to wages paid to an individual who is a dependent, as described in Section 17056, of an individual who owns, directly or indirectly, more than 50 percent in value of the outstanding stock of the taxpayer (as determined pursuant to Section 24429).

(d) The credit under this section shall not apply to wages paid to an individual if, prior to the hiring date of that individual, that individual had been employed by the employer at any time during which he or she was not certified by the Employment Development Department to meet the requirements of Section 328 of the Unemployment Insurance Code.

(e) If the certification of an employee has been revoked pursuant to subdivision (c) of Section 328 of the Unemployment Insurance Code, the credit under this section shall not apply to wages paid by the employer after the date on which notice of revocation is received by the employer.

(f) The credit under this section shall be in addition to any deduction under this part to which the taxpayer may be entitled, if any.

(g) The credit provided by this section shall be applied to wages paid to each qualifying employee during the 24-month period beginning on the date the employee begins working for the taxpayer.

(h) The term "wages" shall not include any amounts paid or incurred to an individual who begins work for the employer after December 31, 1985, or the same date specified for the same purpose for purposes of the federal Targeted Job Tax Credit program (if that program is extended beyond December 31, 1985), whichever is later.

SEC. 5. Section 328 is added to the Unemployment Insurance Code, to read:

328. (a) The department shall administer the California Jobs Tax Credit Act of 1985 as provided in this section, except those functions reserved to the Franchise Tax Board by Section 17053.7 or Section 24330 of the Revenue and Taxation Code. The department shall develop administrative procedures and guidelines necessary to carry out the intent of the act, including, but not limited to, the means to monitor and measure its effectiveness.

(b) The department shall certify, upon the request of any applicant, for the purposes of Section 17053.7 or 24330 of the Revenue and Taxation Code, that any individual, at the time of his or her hiring by the applicant, meets any of the following criteria:

(1) He or she is a recipient of aid under the Aid to Families with Dependent Children program pursuant to Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code, for not less than 90 days immediately preceding his or her date of hire.

(2) He or she is a registrant in a work incentive program established pursuant to Section 5200.

(3) He or she is a recipient of aid under the Supplemental Security Income/State Supplementary Program for the Aged, Blind, and

Disabled pursuant to Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code for any month which falls within the preemployment period.

(4) He or she is a recipient, for any period of at least 30 days ending within the preemployment period, of general assistance (county aid and relief to indigents) pursuant to Part 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code.

(5) He or she is a "qualified summer youth employee," defined as an individual:

(A) Who performs services for the employer between May 1 and September 15.

(B) Who is certified as having attained 16 years of age but not 18 years of age on the hiring date.

(C) Who has not previously been an employee of the employer.

(D) Who is certified as being a member of an economically disadvantaged family.

"An economically disadvantaged family" means a family which had an income during the six months immediately preceding the earlier of the months in which the determination occurs or the month in which the hiring date occurs, which, on an annual basis, would be 70 percent or less of the Bureau of Labor Statistics lower living standard. Any determination shall be valid for the 45-day period beginning on the date the determination is made.

(6) He or she is a recipient of aid under either the Refugee Cash Assistance Program or the Refugee Cash Assistance Demonstration Program pursuant to Chapter 5.2 (commencing with Section 13200) of Part 3 of Division 9 of the Welfare and Institutions Code, for not less than 90 days immediately preceding his or her date of hire.

(7) He or she has a physical or mental disability which constitutes or results in a substantial handicap to employment and has completed, or is participating in, an individualized written vocational rehabilitation plan pursuant to a state plan which is approved under the Rehabilitation Act of 1973, a program of vocational rehabilitation carried out under Chapter 31 (commencing with Section 1500) of Title 38, United States Code, or a program for industrially injured workers under the Workers' Compensation Law.

(c) If an individual has been certified as meeting any of the criteria in subdivision (b) and that certification is incorrect because it was based on false information provided by that individual, the certification shall be revoked, and the department shall immediately notify the applicant who requests the certification of the revocation.

(d) As used in this section, "preemployment period" means the 60-day period ending on the hiring date.

(e) This section shall remain in effect only until January 1, 1986, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1986, deletes or extends that date, except that this section shall not be repealed and shall continue to be operative during the time the federal Targeted Jobs Tax Credit

Program (Section 51 of the Internal Revenue Code of 1954, as amended) is in effect.

SEC. 6. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act shall be applied in the computation of taxes for taxable or income years beginning on or after the first day of the calendar year in which this act becomes effective provided the effective date is more than 90 days prior to the last day of the calendar year. If the effective date is 90 days or less prior to the last day of the calendar year, the provisions of this act shall apply in the computation of taxes for taxable or income years beginning on or after the first day of the calendar year following the effective date.

CHAPTER 1565

An act to add Section 14673.5 to the Government Code, relating to state lands, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 14673.5 is added to the Government Code, to read:

14673.5. The Director of General Services may enter into negotiations with the City of Concord on behalf of the Military Department for the exchange of certain real property located on Willow Pass Road next to the Concord Civic Center which contains a California National Guard armory facility for certain real property owned by the City of Concord and for the improvement thereof with an armory facility for use by the California National Guard. The exchange shall be based on current market value and subject to such terms and conditions, and with such reservations and exceptions, as in the opinion of the Director of General Services are in the best interests of the state, including the condition that the exchange shall result in no net cost to the state.

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 facilitate the exchange of real property with, and to mitigate the urgent need for space by, the City of Concord, this act shall take effect immediately.

CHAPTER 1566

An act to amend Sections 3062, 3066, and 11713.1 of the Vehicle Code, relating to vehicle dealers, and declaring the urgency thereof, to take effect immediately.

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

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

SECTION 1. Section 3062 of the Vehicle Code is amended to read:

3062. (a) Except as otherwise provided in subdivision (b), if a franchisor seeks to enter into a franchise establishing an additional motor vehicle dealership within a relevant market area where the same line-make is then represented, or seeks to relocate an existing motor vehicle dealership, the franchisor shall, in writing, first notify the board and each franchisee in that line-make in the relevant market area of the franchisor's intention to establish an additional dealership or to relocate an existing dealership within or into that market area. Within 20 days of receiving that notice or within 20 days after the end of any appeal procedure provided by the franchisor, any such franchisee may file with the board a protest to the establishing or relocating of the dealership. If, within this time a franchisee files with the board a request for additional time to file a protest, the board or its secretary, upon a showing of good cause, may grant an additional 10 days to file the protest. When such a protest is filed, the board shall inform the franchisor that a timely protest has been filed, that a hearing is required pursuant to Section 3066, and that the franchisor shall not establish or relocate the proposed dealership until the board has held a hearing as provided in Section 3066, nor thereafter, if the board has determined that there is good cause for not permitting the dealership. In the event of multiple protests, hearings may be consolidated to expedite the disposition of the issue.

For the purposes of this section, the reopening in a relevant market area of a dealership that has not been in operation for one year or more shall be deemed the establishment of an additional motor vehicle dealership.

(b) Subdivision (a) does not apply to either of the following:

(1) The relocation of an existing dealership to any location which is both within the same city as, and is within one mile from, the existing dealership location.

(2) The establishment at any location which is both within the same city as, and is within one-quarter mile from, the location of a dealership of the same line-make that has been out of operation for less than 90 days.

(c) Subdivision (a) does not apply to any display of vehicles at a

fair, exposition, or similar exhibit if no actual sales are made at the event and the display does not exceed 30 days. This subdivision shall not be construed to prohibit a new vehicle dealer from establishing a branch office for the purpose of selling vehicles at the fair, exposition, or similar exhibit, even though that the event is sponsored by a financial institution, as defined in Section 31041 of the Financial Code or by a financial institution and a licensed dealer. The establishment of these branch offices, however, shall be in accordance with subdivision (a) where applicable.

(d) For the purposes of this section, the reopening of a dealership that has not been in operation for one year or more shall be deemed the establishment of an additional motor vehicle dealership.

SEC. 2. Section 3066 of the Vehicle Code is amended to read:

3066. (a) Upon receiving a notice of protest pursuant to Section 3060, 3062, 3064, or 3065, the board shall fix a time, which shall be within 60 days of the order, and place of hearing, and shall send by registered mail a copy of the order to the franchisor, the protesting franchisee, and all individuals and groups which have requested notification by the board of protests and decisions of the board. Except in any case involving a franchisee who deals exclusively in motorcycles, the board or its secretary may, upon a showing of good cause, accelerate or postpone the date initially established for a hearing, but in no event shall the hearing be rescheduled more than 90 days after the board's initial order. For the purpose of accelerating or postponing a hearing date, "good cause" includes, but is not limited to, the effects upon, and any irreparable harm to, the parties or interested persons or groups if the request for a change in hearing date is not granted. The board, or a hearing officer designated by the board, shall hear and consider the oral and documented evidence introduced by the parties and other interested individuals and groups, and the board shall make its decision solely on the record so made. Sections 11507.6, 11507.7, except subdivision (c), 11510, 11511, 11513, 11514, 11515, and 11517 of the Government Code apply to these proceedings.

(b) In any hearing on a protest filed pursuant to Section 3060 or 3062, the franchisor shall have the burden of proof to establish that there is good cause to modify, replace, terminate, or refuse to continue a franchise. The franchisee shall have the burden of proof to establish that there is good cause not to enter into a franchise establishing or relocating an additional motor vehicle dealership.

(c) In any hearing on a protest filed pursuant to Section 3064 or 3065, the franchisee shall have the burden to establish that the schedule of compensation or the warranty reimbursement schedule is not reasonable.

(d) A member of the board who is a new motor vehicle dealer may not participate in, hear, comment, or advise other members upon, or decide, any matter involving a protest filed pursuant to this article.

SEC. 3. Section 11713.1 of the Vehicle Code is amended to read:

11713.1. It is unlawful and a violation of this code for the holder of any dealer's license issued under this article to do any of the following:

(a) To advertise any specific vehicle for sale without identifying the vehicle by either its vehicle identification number or license number.

(b) To advertise the total price of a vehicle without including all costs to the purchaser at time of sale, except sales tax, vehicle registration fees, certificate of compliance or noncompliance fees not exceeding twenty dollars ($20) pursuant to any statute or a certificate of waiver pursuant to Section 9889.56 of the Business and Professions Code, finance charges, and any dealer documentary preparation charge. The dealer documentary preparation charge shall not exceed twenty dollars ($20).

(c) To exclude from the newspaper display advertisement of a vehicle for sale that there will be added to the advertised total price at the time of sale, charges for sales tax, vehicle registration fees, the fee charged by the state for the issuance of any certificate of compliance or noncompliance pursuant to any statute or a certificate of waiver pursuant to Section 9889.56 of the Business and Professions Code, finance charges, and any dealer documentary preparation charge.

For purposes of this subdivision, "newspaper display advertisement" means any advertisement in a newspaper which is two or more newspaper columns in width or one newspaper column in width and more than seven inches in length.

(d) To represent the dealer documentary preparation charge as a governmental fee.

(e) To fail to sell a vehicle to any person at the advertised total price, exclusive of sales tax, vehicle registration fees, the fee charged by the state for the issuance of any certificate of compliance or noncompliance pursuant to any statute or a certificate of waiver pursuant to Section 9889.56 of the Business and Professions Code, finance charges, mobilehome escrow fees, the amount of any city, county, or city and county imposed fee or tax for a mobilehome, and any dealer documentary preparation charge, which charges shall not exceed twenty dollars ($20) while the vehicle remains unsold, unless the advertisement states the advertised total price is good only for a specified time and the time has elapsed.

(f) To advertise for sale as new any new vehicle of a line-make for which the dealer does not hold a franchise, unless the dealer discloses prior to the sale of the new vehicle that the dealer is not franchised to sell the vehicle and that the dealer will receive a commission or other compensation as a result of the sale.

This subdivision does not apply to any transaction involving a mobilehome as defined in Section 396 of this code, a recreational vehicle as defined in Section 18010.5 of the Health and Safety Code, a commercial coach as defined in Section 18012 of the Health and Safety Code, an off-highway motor vehicle subject to identification

as defined in Section 38012 of this code, or a commercial vehicle as defined in Section 260 of this code.

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 to restrict sales of certain new motor vehicles by nonfranchised dealers at fairs and expositions in this calendar year, it is necessary that this act take effect immediately.

CHAPTER 1567

An act to amend Section 4701 of the Labor Code, relating to workers' compensation.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 4701 of the Labor Code is amended to read:

4701. When an injury causes death, either with or without disability, the employer shall be liable, in addition to any other benefits provided by this division, for all of the following:

(a) Reasonable expenses of the employee's burial, not exceeding two thousand dollars ($2,000), except that with regard to local public agencies, the employer shall be liable for the reasonable expenses of the employee's burial, not exceeding one thousand five hundred dollars ($1,500), unless the local public agency agrees to provide reasonable expenses of burial for employees in an amount not exceeding two thousand dollars ($2,000).

(b) A death benefit, to be allowed to the dependents when the employee leaves any person dependent upon him or her for support.

CHAPTER 1568

An act relating to educational testing, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 2, 1985. Filed with Secretary of State October 2, 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 reappropriated from the funds appropriated by Section 8 of Chapter 1697 of the Statutes of 1984 to the State Department of Education to be made available for the development of a revised California Assessment Program test instrument for grade 12 during the 1985–86 fiscal year.

SEC. 2. Notwithstanding the requirement contained in provision 1.5 of Item 6100-001-001 of the Budget Act of 1984 (Chapter 258, Statutes 1984), that the funds specified in that provision be used only for the development and implementation of a California Assessment Program test instrument for the 10th grade, the State Department of Education may expend the unencumbered balance of the five hundred fifty thousand dollars ($550,000) appropriated by that item for the development and implementation of a California Assessment Program test instrument for the 8th grade and those funds are hereby reappropriated for this purpose.

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 revise and develop various test instruments as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 1569

An act to amend Section 11004 of the Welfare and Institutions Code, relating to public social services.

[Became law without Governor's signature. Filed with Secretary of State October 2, 1985.]

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

SECTION 1. Section 11004 of the Welfare and Institutions Code is amended to read:

11004. The provisions of this code relative to public social services for which state grants-in-aid are made to the counties shall be administered fairly to the end that all persons who are eligible and apply for such public social services shall receive the assistance to which they are entitled promptly, with due consideration for the needs of applicants and the safeguarding of public funds.

(a) Any applicant for, or recipient or payee of, such public social services shall be informed as to the provisions of eligibility and his or her responsibility for reporting facts material to a correct

determination of eligibility and grant.

(b) Any applicant for, or recipient or payee of, such public social services shall be responsible for reporting accurately and completely within his or her competence those facts required of him or her pursuant to subdivision (a) and to report promptly any changes in those facts.

(c) Current and future grants payable to an assistance unit may be reduced because of prior overpayments to an extent consistent with federal law. In every case, grant payments shall be reduced to a level no lower than 90 percent of the grant, when added to the family's liquid resources and income, appropriate to families in similar conditions to the assistance unit being adjusted. If permitted by federal law, grant payments to be adjusted because of prior overpayments caused by agency errors shall be reduced to a level no lower than 95 percent of the grant when added to the family's liquid resources and net income, appropriate to families in similar conditions to the assistance unit being adjusted. As used in this subdivision, "income" means gross income, and "net income" means gross income minus the otherwise applicable standard work expense and dependent care disregards.

(d) No determination of ineligibility shall be made retrospectively so as to result in an assessment of an overpayment in circumstances where there is a failure on the part of an applicant or recipient to perform an act constituting a condition of eligibility, if the failure is caused by an error made by a state agency or a county welfare department, and if the amount of the grant received by the applicant or recipient would not have been different had the act been performed.

(e) Prior to effectuating any reduction of current grants to recover past overpayments, the recipient shall be advised of the proposed reduction and of his or her entitlement to a hearing on the propriety of the reduction.

(f) If the department determines after a hearing that an overpayment has occurred, the county providing the public social services shall seek to recover in accordance with subdivision (c) the full amount of the overpayment to the assistance unit, including any amount paid while the hearing process was pending, if required in order to conform to federal law or regulation. Such adjustment shall be permitted concurrently with any suit for restitution, and recovery of overpayment by adjustment shall reduce by the amount of such recovery the extent of liability for restitution.

(g) If the individual responsible for the overpayment to the assistance unit is no longer eligible for public social services or if he or she becomes a member of another assistance unit, recoupment of overpayments shall be made against the individual or his or her present assistance unit, or both, to the extent consistent with the provisions of federal law.

(h) Where an overpayment has been made to an assistance unit which is no longer receiving public social services, recovery shall be

made by appropriate action under state law against the income or resources of the individual responsible for the overpayment or against the family.

(i) No civil or criminal action may be commenced against any person based on alleged unlawful application for or receipt of public social services, where the case record of such person has been destroyed after the expiration of the four-year retention period pursuant to Section 10851.

(j) When an underpayment or denial of public social service occurs and as a result the applicant or recipient does not receive the amount to which he or she is entitled, the county shall provide public social services equal to the full amount of the underpayment unless prohibited by federal law.

Any corrective payments made pursuant to this subdivision shall be disregarded in determining the income of the family and shall be disregarded in determining the resources of the family in the month the corrective payment is made and in the following month.

(k) This subdivision shall be applicable only to applicants, recipients and payees under Chapter 2 (commencing with Section 11200) of Part 3 of Division 9. Any suits to recover overpayments described in subdivision (f) shall be brought on behalf of the county by the county counsel unless the board of supervisors delegates such duty to the district attorney by ordinance or resolution.

SEC. 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 1570

An act to add Section 11201.5 to the Welfare and Institutions Code, relating to Aid to Families with Dependent Children.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 11201.5 is added to the Welfare and Institutions Code, to read:

11201.5. (a) The department shall conduct a demonstration

program in order to determine whether the definition of "unemployed parent" specified in Section 11201 discourages primary wage earners receiving assistance under this chapter from accepting employment offered to them

(b) The department shall seek the necessary waivers to implement this section.

The waivers shall provide that for recipients of aid under this chapter the definition of "unemployed parent" shall be the principal earner, whose wages after applicable earned income disregards, is less than the minimum basic standard of adequate care for the family size. This definition shall apply only to those families receiving Aid to Families with Dependent Children-Unemployed Parent assistance whose total applicable family income meets the gross and net income eligibility standards established by regulation.

(c) The demonstration program, provided for in this section, shall provide for one county to demonstrate whether this revised definition of "unemployed parent" would:

(1) Increase the number of principal earners accepting employment.

(2) Reduce the average level of grant payments being made in the Aid to Families with Dependent Children-Unemployed Parent Program.

The duration of the demonstration program shall be for two years from the date of implementation by the county.

(d) The department shall institute as soon as possible both of the following:

(1) Upon receipt of the federal waivers, the demonstration program described in subdivision (c).

(2) As part of the demonstration project, as described in subdivision (c), to test the impact of this revised definition of "unemployed parent" as part of the State-Only AFDC-U Program provided in Article 3.1 (commencing with Section 11315). If the federal waivers are obtained, this program shall be implemented concurrently with the program described in paragraph (1). If the federal waivers are denied, this program shall be implemented as soon as possible after such denial. The duration of the program shall be for two years from the date of implementation by the county.

For purposes of this demonstration program, the Aid to Families With Dependent Children-Unemployed Parent applicant shall not have quit a job without good cause within the 90 days immediately prior to the beginning date of aid. If the Aid to Families With Dependent Children-Unemployed Parent applicant quits a job without good cause within this 90-day period, the entire family shall be ineligible for aid under this chapter for 90 days from the date the applicant quit his or her job.

An Aid to Families With Dependent Children-Unemployed Parent recipient shall not refuse an offer of employment without good cause. Good cause does not exist when the wage, less applicable earned income disregards, would make the family financially

ineligible for aid under this chapter.

The demonstration program established pursuant to this section shall be in addition to the refugee demonstration programs provided for during the 1983–84 Regular Session.

(e) The department shall report to the Legislature the results of the demonstration program.

CHAPTER 1571

An act to amend Section 20140 of, and to add Section 20930.2 to, the Government Code, relating to the Public Employees' Retirement System.

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

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

SECTION 1. Section 21040 of the Government Code is amended to read:

20140. In addition to any other reports that it may be required to make by law, the board shall annually file a separate report with the Governor and each house of the Legislature on all matters under the jurisdiction of the board.

SEC. 2. Section 20930.2 is added to the Government Code, to read:

20930.2. (a) "Public service" with respect to a state member, other than a university member, also means the following:

(1) Time during which the member was a prisoner of war involving the United States, plus the time, if any, during which a member was hospitalized following his or her release from captivity for a disabling wound, injury, or disease directly attributable to that captivity but not to include hospitalization after the members' honorable and permanent medical separation from the armed forces.

(2) Time between the onset of the member's disabling wound, injury, or disease, directly attributable to service in combat with the armed forces during a war involving the United States, and the date of the member's honorable and permanent medical separation from the armed forces due to the disabling condition, provided that, the member has a permanent disability rating in excess of 50 percent, that percentage having been determined under applicable federal law.

(b) For the purposes of this section, a war involving the United States exists in any of the following circumstances:

(1) Whenever Congress has declared war and peace has not been formally restored.

(2) Whenever the United States is engaged in active military operations against any foreign power, whether or not a war has been

formally declared.

(3) Whenever the United States is assisting the United Nations, in actions involving the use of the armed forces, to maintain or restore international peace and security.

(c) A member electing to receive credit for public service under this section shall pay the contributions and interest required pursuant to Section 20932, except that, the first subsequent period of service in membership as a state member, other than a university member, shall be used to determine the formula, rate, age applicable, and the compensation earnable.

(d) This section shall apply to a member only if the member elects to receive credit while he or she is a state member, other than a university member, and he or she is credited with at least 10 years of service as a state member, other than a university member, on the date of such election.

(e) The maximum public service credit which may be received pursuant to this section is five years.

(f) This section shall not apply to any member receiving military retirement pay as described in Section 20809.1 or disability retirement pay as described in Section 20809.2.

(g) Except as provided in subdivision (f), this section shall apply to a state member, other than a university member, who leaves or has left employment with the state, subsequently meets or has subsequently met the conditions specified in subdivisions (a) and (b), and thereafter returns or thereafter has returned to service as a state member, other than a university member, is not entitled to receive the service credit pursuant to Section 20892.5 or 20894.5.

CHAPTER 1572

An act to amend Section 1228 of the Evidence Code, and to add Sections 11165.1 and 11165.2 to the Penal Code, relating to child abuse, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

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

1228. Notwithstanding any other provision of law, for the purpose of establishing the elements of the crime in order to admit as evidence the confession of a person accused of violating Section 261, 264.1, 285, 286, 288, 288a, 289, or 647a of the Penal Code, a court, in its discretion, may determine that a statement of the complaining witness is not made inadmissible by the hearsay rule if it finds all of the following:

(a) The statement was made by a minor child under the age of 12, and the contents of the statement were included in a written report of a law enforcement official or an employee of a county welfare department.

(b) The statement describes the minor child as a victim of sexual abuse.

(c) The statement was made prior to the defendant's confession. The court shall view with caution the testimony of a person recounting hearsay where there is evidence of personal bias or prejudice.

(d) There are no circumstances, such as significant inconsistencies between the confession and the statement concerning material facts establishing any element of the crime or the identification of the defendant, that would render the statement unreliable.

(e) The minor child is found to be unavailable pursuant to paragraph (2) or (3) of subdivision (a) of Section 240 or refuses to testify.

(f) The confession was memorialized in a trustworthy fashion by a law enforcement official.

If the prosecution intends to offer a statement of the complaining witness pursuant to this section, the prosecution shall serve a written notice upon the defendant at least 10 days prior to the hearing or trial at which the prosecution intends to offer the statement.

If the statement is offered during trial, the court's determination shall be made out of the presence of the jury. If the statement is found to be admissible pursuant to this section, it shall be admitted out of the presence of the jury and solely for the purpose of determining the admissibility of the confession of the defendant.

SEC. 2. Section 11165.1 is added to the Penal Code, to read:

11165.1. In addition to those persons specified in the definition of "child care custodian" contained in Section 11165, the term also includes any person who is an administrator or presentor of, or a counselor in, a child abuse prevention program in any public or private school.

SEC. 3. Section 11165.2 is added to the Penal Code to read:

11165.2. (a) On and after the effective date of this section, as used in this article, "medical practitioner" or "nonmedical practitioner" means a "health practitioner" as defined in this section.

(b) "Health practitioner" means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, marriage, family, and child counselor, 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, a person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code, a psychological assistant registered pursuant to Section 2913 of the Business and Professions Code, a marriage, family and child counselor trainee, as defined in subdivision (c) of Section 4980.03 of the Business and

Professions Code, an unlicensed marriage, family and child counselor intern registered under Section 4980.44 of the Business and Professions Code, a state or county public health employee who treats a minor for veneral disease or any other condition, a coroner, or a religious practitioner who diagnoses, examines, or treats children.

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. This act is an urgency statute necessary for the immediate preservation of 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 clarification in the law regarding the testimony of minors in child abuse cases and in order that child protective agencies may make information regarding reported cases of known or suspected child abuse instances available to reporting marriage, family, and child counselors at the earliest possible time, it is necessary that this bill take immediate effect.

CHAPTER 1573

An act to add Section 18041 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 18041 is added to the Revenue and Taxation Code, to read:

18041. (a) No gain shall be recognized with respect to a sale of a mobilehome park by the taxpayer to a majority or more of the residents of the mobilehome park if the taxpayer has not previously sold a mobilehome park to the residents thereof within the same taxable year and all of the proceeds from the sale are reinvested in residential real property, other than a personal residence, in this state within two years after the sale.

(b) For purposes of this section:

(1) "Taxpayer" means the sole owner or any one of multiple owners of a mobilehome park.

(2) "Mobilehome park" means a mobilehome park as defined in Section 18214 of the Health and Safety Code.

(3) "Resident" means a resident as defined in Section 798.11 of the Civil Code.

(4) "Completed sale" means a sale for which escrow has been completed.

(c) Where the purchase of residential real property results, under subdivision (a), in the nonrecognition of gain on the sale of a mobilehome park, in determining the adjusted basis of the purchased residential real property as of any time following the sale of the mobilehome park, the adjustments to basis shall include a reduction by an amount equal to the amount of the gain not so recognized on the sale of the mobilehome park. Where more than one parcel of residential real property has been purchased, the nonrecognized gain from the sale of the mobilehome park shall be attributed to the parcels of residential real property on a pro rata basis based upon the purchase prices of those parcels.

(d) If the taxpayer, in accordance with subdivision (a), sells a mobilehome park at a gain during the taxable year, then each of the following shall apply:

(1) The statutory period for the assessment of any deficiency attributable to any part of the gain shall not expire before the expiration of four years from the date the Franchise Tax Board is notified by the taxpayer (on such form as the Franchise Tax Board may provide) of one of the following:

(A) The taxpayer's cost of purchasing the residential real property which the taxpayer claims satisfies the requirement of subdivision (a) and results in the nonrecognition of gain.

(B) The taxpayer's intention not to reinvest all of the proceeds from the sale in residential real property within the period specified in subdivision (a).

(C) The taxpayer's failure to reinvest all of the proceeds from the sale in residential real property within the period specified in subdivision (a).

(2) The deficiency may be assessed before the expiration of the period specified in paragraph (1), notwithstanding the provisions of any other law or rule of law which would otherwise prevent the assessment.

(3) In the return for the taxable year in which the taxpayer, in accordance with subdivision (a), sells a mobilehome park at a gain, the taxpayer shall disclose (on such form as the Franchise Tax Board may provide) all information regarding the sale which may be necessary to determine whether the sale qualifies under subdivision (a) and the amount of gain not recognized.

(e) This section shall apply to sales completed on or after January 1, 1986, and no later than December 31, 1988.

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 1574

An act to add Section 10176.5 to the Business and Professions Code, and to add Article 1.5 (commencing with Section 1102) to Chapter 2 of Title 4 of Part 4 of Division 2 of the Civil Code, relating to real property.

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

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

SECTION 1. Section 10176.5 is added to the Business and Professions Code, to read:

10176.5. The commissioner may, upon his or her own motion, and shall upon receiving a verified complaint in writing from any person, investigate an alleged violation of Article 1.5 (commencing with Section 1102) of Chapter 2 of Title 4 of Part 4 of Division 2 of the Civil Code by any real estate licensee within this state. The commissioner may suspend or revoke a licensee's license if the licensee acting under the license has willfully or repeatedly violated any of the provisions of Article 1.5 (commencing with Section 1102) of Chapter 2 of Title 4 of Part 4 of Division 2 of the Civil Code.

SEC. 2. Article 1.5 (commencing with Section 1102) is added to Chapter 2 of Title 4 of Part 4 of Division 2 of the Civil Code, to read:

Article 1.5. Disclosures Upon Transfer of Residential Property

1102. Except as provided in Section 1102.1, this article applies to any transfer by sale, installment land sale contract, as defined in Section 2985, lease with an option to purchase, or ground lease coupled with improvements, of real property improved with not less than one nor more than four dwelling units.

1102.1. The provisions of this article do not apply to the following:

(a) Transfers which are required to be preceded by the furnishing to a prospective transferee of a copy of a public report pursuant to Section 11018.1 of the Business and Professions Code and transfers which can be made without a public report pursuant to Section 11010.4 of the Business and Professions Code.

(b) Transfers pursuant to court order, including, but not limited to, transfers ordered by a probate court in administration of an estate, transfers pursuant to a writ of execution, transfers by a trustee in bankruptcy, transfers by eminent domain, and transfers resulting from a decree for specific performance.

(c) Transfers to a mortgagee by a mortgagor in default, transfers to a beneficiary of a deed of trust by a trustor in default, transfers by any foreclosure sale after default in an obligation secured by a mortgage, transfers by a sale under a power of sale after default in an obligation secured by a deed of trust or secured by any other

instrument containing a power of sale, or transfers by a mortgagee or a beneficiary under a deed of trust who has acquired the real property at a sale conducted pursuant to a power of sale under a mortgage or deed of trust or has acquired the real property by a deed in lieu of foreclosure.

(d) Transfers by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust.

(e) Transfers from one co-owner to one or more other co-owners.

(f) Transfers made to a spouse, or to a person or persons in the lineal line of consanguinity of one or more of the transferors.

(g) Transfers between spouses resulting from a decree of dissolution of marriage or a decree of legal separation or from a property settlement agreement incidental to such a decree.

(h) Transfers by the Controller in the course of administering Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure.

(i) Transfers under Chapter 7 (commencing with Section 3691) or Chapter 8 (commencing with Section 3771) of Part 6 of Division 1 of the Revenue and Taxation Code.

(j) Transfers to or from any governmental entity.

1102.2. The transferor of any real property subject to this article shall deliver to the prospective transferee the written statement required by this article, as follows:

(a) In the case of a sale, as soon as practicable before transfer of title.

(b) In the case of transfer by a real property sales contract, as defined in Section 2985, or by a lease together with an option to purchase, or a ground lease coupled with improvements, before execution of the contract.

With respect to any transfer subject to subdivision (a) or (b), the transferor shall indicate compliance with this article either on the receipt for deposit, the real property sales contract, the lease, or any addendum attached thereto or on a separate document.

If any disclosure, or any material amendment of any disclosure, required to be made by this article, is delivered after the execution of an offer to purchase, the transferee shall have three days after delivery in person or five days after delivery by deposit in the mail, to terminate his or her offer by delivery of a written notice of termination to the transferor or his or her agent.

1102.4. (a) Neither the transferor nor his or her agent shall be liable for any error, inaccuracy, or omission of any information delivered pursuant to this article if the error, inaccuracy, or omission was not within the personal knowledge of the transferor or his or her agent, was based on information timely provided by public agencies or by other persons providing information as specified in subdivision (c) that is required to be disclosed pursuant to this article, and ordinary care was exercised in obtaining and transmitting it.

(b) The delivery of any information required to be disclosed by this article to a prospective transferee by a public agency or other

person providing information required to be disclosed pursuant to this article shall be deemed to comply with the requirements of this article and shall relieve the transferor or his or her agent of any further duty under this article with respect to that item of information.

(c) The delivery of a report or opinion prepared by a licensed engineer, land surveyor, geologist, structural pest control operator, contractor, or other expert, dealing with matters within the scope of the professional's license or expertise, shall be sufficient compliance for application of the exemption provided by subdivision (a) if the information is provided to the prospective transferee pursuant to a request therefor, whether written or oral, by the transferor or his or her agent. In responding to such a request, an expert may indicate, in writing, an understanding that the information provided will be used in fulfilling the requirements of Section 1102.6 and, if so, shall indicate the required disclosures, or parts thereof, to which the information being furnished is applicable. Where such a statement is furnished, the expert shall not be responsible for any items of information, or parts thereof, other than those expressly set forth in the statement.

1102.5. If information disclosed in accordance with this article is subsequently rendered inaccurate as a result of any act, occurrence, or agreement subsequent to the delivery of the required disclosures, the inaccuracy resulting therefrom does not constitute a violation of this article. If at the time the disclosures are required to be made, an item of information required to be disclosed is unknown or not available to the transferor, and the transferor or his or her agent has made a reasonable effort to ascertain it, the transferor may use an approximation of the information, provided the approximation is clearly identified as such, is reasonable, is based on the best information available to the transferor or his or her agent, and is not used for the purpose of circumventing or evading this article.

1102.6. The disclosures required by this article pertaining to the property proposed to be transferred are set forth in, and shall be made on a copy of, the following disclosure form:

REAL ESTATE TRANSFER DISCLOSURE STATEMENT

THIS STATEMENT IS A DISCLOSURE OF THE CONDITION OF THE PROPERTY IN COMPLIANCE WITH SECTION 1102 OF THE CIVIL CODE AS OF _____, 19____ IT IS NOT A WARRANTY OF ANY KIND BY THE SELLER(S) OR ANY AGENT(S) REPRESENTING ANY PRINCIPAL(S) IN THIS TRANSACTION, AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES THE PRINCIPAL(S) MAY WISH TO OBTAIN

I

COORDINATION WITH OTHER DISCLOSURE FORMS

This Real Estate Transfer Disclosure Statement is made pursuant to Section 1102 of the Civil Code Other statutes require disclosures, depending upon the details of the particular real estate transaction (for example. geologic hazard zones, creative financing, and structural alterations or additions).

Substituted Disclosures. The following disclosures have or will be made in connection with this real estate transfer, and are intended to satisfy the disclosure obligations on this form, where the subject matter is the same _____

_____

_____

_____

(list all other disclosure forms to be used in connection with this transaction)

II

SELLERS INFORMATION

The Seller discloses the following information with the knowledge that even though this is not a warranty, prospective Buyers may rely on this information in deciding whether and on what terms to purchase the subject property Seller hereby authorizes any agent(s) representing any principal(s) in this transaction to provide a copy of this statement to any person or entity in connection with any actual or anticipated sale of the property.

THE FOLLOWING ARE REPRESENTATIONS MADE BY THE SELLER(S) AND ARE NOT THE REPRESENTATIONS OF THE AGENT(S), IF ANY. THIS INFORMATION IS A DISCLOSURE ONLY AND IS NOT INTENDED TO BE A PART OF ANY CONTRACT BETWEEN THE BUYER AND SELLER.

Seller __is __is not occupying the property

A. The subject property has the items checked below (read across).

__Range	__Oven	__Microwave
__Dishwasher	__Trash Compactor	__Garbage Disposal
__Washer/Dryer Hookups	__Window Screens	__Rain Gutters
__Burglar Alarms	__Smoke Detector(s)	__Fire Alarm
__T V Antenna	__Satellite Dish	__Intercom
__Central Heating	__Central Air Cndtng	__Evaporator Cooler(s)
__Wall/Window Air Cndtng	__Sprinklers	__Public Sewer System
__Septic Tank	__Sump Pump	__Water Softener
__Patio/Decking	__Built-in Barbeque	__Gazebo
__Sauna	__Pool	__Spa __Hot Tub
__Security Gate(s)	__Garage Door Opener(s)	__Number Remote Controls
Garage __Attached	__Not Attached	__Carport
Pool/Spa Heater __Gas	__Solar	__Electric
Water Heater __Gas		__Private Utility or
Water Supply __City	__Well	Other_____

Exhaust Fan(s) in_____ 220 Volt Wiring in_____
Fireplace(s) in_____ Gas Hookup Insulation in_____
__Roof Type _____ Age _____(approx)
__Other· _____

Are there, to the best of your (Seller's) knowledge, any of the above that are not in operating condition? __Yes __No. If yes, then describe.

(Attach additional sheets if necessary.) _____
_____
_____
_____

B. Are you (Seller) aware of any significant defects/malfunctions in any of the following? _Yes _No If yes, check appropriate box(s) below

__Interior Walls __Ceilings __Floors __Exterior Walls __Roof __Windows __Doors __Foundation __Slab(s) __Driveways __Sidewalks __Walls/Fences __Electrical Systems __Plumbing/Sewers/Septics __Other Structural Components (Describe· _____
_____)

If any of the above is checked, explain (Attach additional sheets if necessary)·___
_____
_____
_____

C Are you (Seller) aware of any of the following:

1. Features of the property shared in common with adjoining landowners, such as walls, fences, and driveways, whose use or responsibility for maintenance may have an effect on the subject property. ..... ___Yes ___No
2. Any encroachments, easements or similar matters that may affect your interest in the subject property. ... . ___Yes ___No
3. Room additions, structural modifications, or other alterations or repairs made without necessary permits ..... ___Yes ___No
4 Room additions, structural modifications, or other alterations or repairs not in compliance with building codes..... ___Yes ___No
5 Landfill (compacted or otherwise) on the property or any portion thereof..... ___Yes ___No
6 Settling, slippage, sliding, or other soil problems..... ___Yes ___No
7. Flooding, drainage or grading problems..... ___Yes ___No
8. Major damage to the property or any of the structures from fire, earthquake, floods, or landslides..... ___Yes ___No
9 Any zoning violations, nonconforming uses, violations of "setback" requirements ..... ___Yes ___No
10. Neighborhood noise problems or other nuisances ..... ___Yes ___No
11 Homeowners' Association which has any authority over the subject property, CC&R's, or other deed restrictions or obligations. ..... ___Yes ___No
12. Any "common area" (facilities such as pools, tennis courts, walkways, or other areas co-owned in undivided interest with others)..... ___Yes ___No
13. Any notices of abatement or citations against the property ... ___Yes ___No
14 Any lawsuits against the seller threatening to or affecting this real property ..... ___Yes ___No

If the answer to any of these is yes, explain (Attach additional sheets if necessary.): _____

_____

_____

_____

Seller certifies that the information herein is true and correct to the best of the Seller's knowledge as of the date signed by the Seller.

Seller_____ Date_____

Seller_____ Date_____

III

AGENTS INSPECTION DISCLOSURE

(To be completed only if any of the principals is represented by an agent in this transaction.)

BASED ON THE ABOVE INQUIRY OF THE SELLER(S) AS TO THE CONDITION OF THE PROPERTY AND BASED ON A REASONABLY COMPETENT AND DILIGENT VISUAL INSPECTION OF THE ACCESSIBLE AREAS OF THE PROPERTY BY THE UNDERSIGNED AGENT IN CONJUNCTION WITH THAT INQUIRY, AGENT STATES THE FOLLOWING:

_____

_____

_____

_____

BUYER(S) AND SELLER(S) MAY WISH TO OBTAIN PROFESSIONAL ADVICE AND/OR INSPECTIONS OF THE PROPERTY AND TO PROVIDE FOR APPROPRIATE PROVISIONS IN A CONTRACT BETWEEN BUYER(S) AND SELLER(S) WITH RESPECT TO ANY ADVICE/INSPECTIONS/DEFECTS.

Real Estate Broker_____ By_____ Date_____
(Please Print) (Associate Licensee Signature)

IV

I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS STATEMENT

Seller_____ Date_____ Buyer_____ Date_____
Seller_____ Date_____ Buyer_____ Date_____
Selling Broker_____ By_____ Date_____
(Associate Licensee Signature)

A REAL ESTATE BROKER IS QUALIFIED TO ADVISE ON REAL ESTATE. IF YOU DESIRE LEGAL ADVICE CONSULT YOUR ATTORNEY

1102.7. Each disclosure required by this article and each act which may be performed in making the disclosure, shall be made in good faith. For purposes of this article, "good faith" means honesty in fact in the conduct of the transaction.

1102.8. The specification of items for disclosure in this article does not limit or abridge any obligation for disclosure created by any other provision of law or which may exist in order to avoid fraud, misrepresentation, or deceit in the transfer transaction.

1102.9. Any disclosure made pursuant to this article may be amended in writing by the transferor or his or her agent, but the amendment shall be subject to the provisions of Section 1102.2.

1102.10. Delivery of disclosures required by this article shall be by personal delivery to the tranferee or by mail to the prospective transferee. For the purposes of this article, delivery to the spouse of a transferee shall be deemed delivery to the transferee, unless provided otherwise by contract.

1102.11. Any person or entity, other than a real estate licensee licensed pursuant to Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions Code, acting in the capacity of an escrow agent for the transfer of real property subject to this article shall not be deemed the agent of the transferor or transferee for purposes of the disclosure requirements of this article, unless the person or entity is empowered to so act by an express written agreement to that effect. The extent of such an agency shall be governed by the written agreement.

1102.12. (a) If more than one licensed real estate broker is acting as an agent in a transaction subject to this article, the broker who has obtained the offer made by the transferee shall, except as otherwise provided in this article, deliver the disclosure required by this article to the transferee, unless the transferor has given other written instructions for delivery.

(b) If a licensed real estate broker responsible for making the disclosures under this section cannot obtain the disclosure document required and does not have written assurance from the transferee that the disclosure has been received, the broker shall advise the transferee in writing of his or her rights to the disclosure. A licensed real estate broker responsible for making disclosures under this section shall maintain a record of the action taken to effect compliance in accordance with Section 10148 of the Business and Professions Code.

1102.13. No transfer subject to this article shall be invalidated solely because of the failure of any person to comply with any provision of this article. However, any person who willfully or negligently violates or fails to perform any duty prescribed by any provision of this article shall be liable in the amount of actual damages suffered by a transferee.

SEC. 3. This act shall become operative on January 1, 1987.

CHAPTER 1575

An act to add Section 830.9 to, the Penal Code, relating to peace officers.

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

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

SECTION 1. Section 830.9 is added to the Penal Code, to read:

830.9. Animal control officers are not peace officers but may exercise the powers of arrest of a peace officer as specified in Section 836 and the power to serve warrants as specified in Sections 1523 and 1530 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. That part of the training course specified in Section 832 pertaining to the carrying and use of firearms shall not be required for any animal control officer whose employing agency prohibits the use of firearms.

For the purposes of this section, "firearms" includes capture guns, blowguns, carbon dioxide operated rifles and pistols, air guns, handguns, rifles, and shotguns.

CHAPTER 1576

An act to amend Section 20341 of the Public Contract Code, to amend Sections 120050, 120050.2, 120050.5, 120051.6, 120054, 120100, 120102.5, 120107. 120220, 120264, 120265, 120451, 120478, 120520, 120521, and 120522 of, to add Chapter 2 (commencing with Section 132000) to Division 12.5 of, to add a division heading immediately preceding Section 132000 of, and to repeal Sections 120051.5, 120052, 120053, 120102, and 120224 of, the Public Utilities Code, and to add Section 7252.7 to the Revenue and Taxation Code, relating to transportation.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 20341 of the Public Contract Code is amended to read:

20341. Contracts for the construction in excess of twenty thousand dollars ($20,000) shall be awarded to the lowest responsible bidder submitting a responsive bid after competitive bidding, except in emergency declared by the vote of two-thirds of the membership of the board. When the expected construction contract exceeds one

thousand dollars ($1,000) and does not exceed twenty thousand dollars ($20,000), the board shall seek a minimum of three quotations, either written or oral, which permit prices and other terms to be compared.

SEC. 2. Section 120050 of the Public Utilities Code is amended to read:

120050. There is hereby created the San Diego Metropolitan Transit Development Board in that portion of the County of San Diego as described in Section 120054.

SEC. 3. Section 120050.2 of the Public Utilities Code is amended to read:

120050.2. The board consists of 15 members selected as follows:

(a) One member of the County of San Diego Board of Supervisors, appointed by the board of supervisors.

(b) Four members of the City Council of the City of San Diego, one of whom may be the mayor, appointed by the city council.

(c) One member of each city council appointed individually by the City Councils of the Cities of Chula Vista, Coronado, El Cajon, Imperial Beach, La Mesa, Lemon Grove, National City, Poway, and Santee.

(d) One member, a resident of San Diego County, appointed by the Governor, with the advice and consent of the Senate, who shall serve as chairperson of the board.

SEC. 4. Section 120050.5 of the Public Utilities Code is amended to read:

120050.5. Any person who is a member of the board may be appointed by his or her appointing authority to continue to serve as a member of the board after the termination of his or her term of office for a period not to exceed four years after the date of termination of his or her term of elected office.

SEC. 5. Section 120051.5 of the Public Utilities Code is repealed.

SEC. 6. Section 120051.6 of the Public Utilities Code is amended to read:

120051.6. The alternate members of the board shall be appointed as follows:

(a) The County of San Diego Board of Supervisors shall appoint any other county supervisor who qualifies for appointment pursuant to Section 120051 to serve as an alternate member of the transit development board.

(b) The City Council of the City of San Diego shall appoint a member of the city council not already appointed pursuant to subdivision (b) of Section 120050.2 to serve as an alternate member of the transit development board for each of the members appointed by the city council to the transit development board.

(c) The city councils specified in subdivision (c) of Section 120050.2 shall each individually appoint a member of their respective city councils not already appointed pursuant to that subdivision to serve as an alternate member of the transit development board.

(d) The Governor shall, with the advice and consent of the

Senate, appoint a resident of the County of San Diego to serve as an alternate member of the transit development board.

SEC. 7. Section 120052 of the Public Utilities Code is repealed.

SEC. 8. Section 120053 of the Public Utilities Code is repealed.

SEC. 9. Section 120054 of the Public Utilities Code is amended to read:

120054. The area of the board shall consist of all of the following:

(a) The Cities of Chula Vista, Coronado, El Cajon, Imperial Beach, La Mesa, Lemon Grove, National City, Poway, San Diego, and Santee.

(b) Census tracts 100.07, 133.05, 134.04, 135.02, 136.02, 154.02, 156.02, 164.02, 166.07, 166.08, 167.01, 167.02, 168.04, 168.05, 170.05, and 170.10, as set forth in the 1980 decennial census maps for the State of California on file with the Bureau of the Census, Department of Commerce, Washington, D.C.

(c) All the unincorporated area of the County of San Diego surrounded by the cities specified in subdivision (a) and the census tracts specified in subdivision (b).

SEC. 10. Section 120100 of the Public Utilities Code is amended to read:

120100. The board at its first meeting, and thereafter annually at the first meeting in January, shall elect a vice chairman who shall preside in the absence of the chairman. In the event of the absence or inability to act by the chairman or vice chairman, the members present, by an order entered in the minutes, shall select one of their members to act as chairman pro tem, who, while so acting, shall have all of the authority of the chairman.

SEC. 11. Section 120102 of the Public Utilities Code is repealed.

SEC. 12. Section 120102.5 of the Public Utilities Code is amended to read:

120102.5. (a) A majority of the members of the board constitutes a quorum for the transaction of business. All official acts of the board require the affirmative vote of the majority of the members of the board. However, after a vote of the members is taken, a weighted vote may be called by any two members, at least one of whom is not a City of San Diego representative.

(b) In the case of a weighted vote, each of the four representatives of the City of San Diego shall exercise 12½ weighted votes, for a total of 50 votes. The County of San Diego and each city, other than the City of San Diego, shall, in total, exercise 49 weighted votes to be apportioned annually by population. The member appointed by the Governor shall exercise one weighted vote.

(c) Approval under the weighted vote procedure requires the vote of the representatives of not less than three jurisdictions representing not less than 51 percent of the total weighted vote to supersede the original action of the board.

(d) The weighted vote procedure shall not be used on any matter of purely intracity local service, unless it is the desire of the affected city or jurisdiction.

(e) For purposes of subdivision (c), the population of the County of San Diego is the population in the unincorporated area of the county within the area of jurisdiction of the transit development board.

(f) The board shall adopt a policy and procedure to implement this section.

SEC. 13. Section 120107 of the Public Utilities Code is amended to read:

120107. Each member of the board, including alternate members appointed pursuant to Section 120051.6 when serving in the absence of a regular member, shall be paid one hundred dollars ($100) for each day the member attends meetings of the board and committees of the board, not to exceed five committee meetings in any one quarter, and his or her necessary and reasonable expenses in performing his or her duties as a board member.

SEC. 14. Section 120220 of the Public Utilities Code is amended to read:

120220. The board may make contracts and enter into stipulations of any nature whatsoever, either in connection with eminent domain proceedings or otherwise, including, without limiting the generality of the foregoing, contracts and stipulations to indemnify and save harmless, to employ labor, to contract with a private patrol operator licensed pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code and with the county sheriff and existing municipal police departments within the areas described in Section 120054 for security, police, and related services, and to do all acts necessary and convenient for the full exercise of the powers granted in this division.

SEC. 15. Section 120224 of the Public Utilities Code is repealed.

SEC. 16. Section 120264 of the Public Utilities Code is amended to read:

120264. The transit development board may acquire, construct, maintain, and operate (or let a contract to operate) public transit systems and related transportation facilities and services as it deems necessary to carry out the purposes of this division. The various systems, facilities, and services may be administered by the transit development board under the name of the San Diego Metropolitan Transit System.

SEC. 16.5. Section 120265 of the Public Utilities Code is amended to read:

120265. (a) The board shall provide a system of regional transit services for its area of jurisdiction, to be funded from the regional transit service fund which the board shall create. The board may provide the regional services directly, by contract with the corporation, or by contract with any other provider of services as it deems appropriate, and upon terms and conditions that the board finds in its best interests. The board shall complete an economic feasibility study of competitive bidding for regional transit service within 180 days from the date of acquisition of the San Diego Transit

Corporation and shall update the study at any time the board deems appropriate to consider changed circumstances. The board shall adopt a policy for contract services to permit prices and other factors to be compared and evaluated prior to negotiating any contract for regional service.

(b) The board shall determine the routes, fares, frequency of service, and hours of operation of regional services. The board shall create a regional transit service advisory committee consisting of a representative from each of the jurisdictions that contributes to the regional transit service funds from its apportionment as determined pursuant to Section 99231.

Periodic revisions to the regional route system may be made by the board upon review by the regional transit service advisory committee which shall meet on an as-needed basis, but not less than once a year to review the annual budget and assessment for regional transit services.

(c) The formula specified in subdivision (d) for funding regional services shall remain in effect for a minimum of three fiscal years and thereafter may be amended by agreement of all affected jurisdictions and the board. The regional transit service advisory committee shall review the assessment formula and recommend appropriate changes to the board and the jurisdictions.

(d) On an annual basis, at the time that the annual apportionment schedule is developed by the transportation planning agency, each jurisdiction shall be assessed a percentage of its apportionment equal to the percentage of its 1983–84 fiscal year apportionment claimed for support of regional services or 5 percent of its annual apportionment, whichever is greater. The assessment for the County of San Diego shall be applied only to that portion of the county apportionment attributable to the board's area of jurisdiction as defined in Section 120054. Any funds remaining after the annual assessment for regional services shall be made available to the jurisdictions for support of transit purposes.

(e) The board may enter into agreements with any local jurisdiction to provide local transit services by such means and upon terms and conditions as may be mutually agreed upon.

(f) The board shall, upon request of the City of Coronado, Poway, or Santee, or the County of San Diego, establish reserves consisting of that part of the board's allocation pursuant to paragraph (1) of subdivision (b) of Section 99233.5, which otherwise would have been allocated to each requesting city or county for the first two fiscal years after the board's acquisition of the San Diego Transit Corporation. The reserves shall be used by the board for transit purposes within the requesting city or county.

(g) The acquisition of the San Diego Transit Corporation by the board shall not create or impose any financial liability upon the County of San Diego or the cities within the board's area of jurisdiction for any obligations and liabilities of the corporation by virtue of their membership on the board.

SEC. 17. Section 120451 of the Public Utilities Code is amended to read:

120451. Violation of any ordinance, rule, or regulation enacted by the board prohibiting unauthorized operation or manipulation of transit facilities owned or controlled by the board, or prohibiting unauthorized tampering or interference with, or loitering in or about, transit facilities owned or controlled by the board, is an infraction punishable by a fine not exceeding fifty dollars ($50), except that such a violation by a person, after the first conviction under this section, is a misdemeanor punishable by a fine not exceeding five hundred dollars ($500) or by imprisonment not exceeding six months, or by both that fine and imprisonment.

SEC. 18. Section 120478 of the Public Utilities Code is amended to read:

120478. The rules and regulations adopted by the board shall include, but not be limited to, the following:

(a) Criteria to determine the definition and validity of a regional transit service dispute.

(b) Procedures for the submission of a regional transit service dispute to the board.

(c) The information, such as the matter in dispute, to be included in the notice to be sent to the parties in the regional transit service dispute.

(d) The procedure for mediation prior to a hearing before a transit coordination and service committee.

(e) The appointment, if mediation fails, of a transit coordination and service committee, consisting of board members, to hold a public hearing on the regional transit service dispute in the locality of the dispute and to make reports of its findings of fact and its recommendations regarding the dispute to the board.

(f) The adoption of one or more alternative procedures for the review and resolution of regional disputes involving the San Diego Transit Corporation, to be mutually agreed upon by the parties to the dispute.

(g) If the regional dispute involves one or more local agencies not within the area governed by the board, the adoption of one or more alternative procedures for the review and resolution of the dispute, to be mutually agreed upon by the parties to the dispute.

(h) Actions the board may take to resolve the dispute.

SEC. 19. Section 120520 of the Public Utilities Code is amended to read:

120520. Whenever the board acquires ownership of existing facilities from a privately or publicly owned corporation or utility, either in proceedings by eminent domain or otherwise and terminates the legal existence of the corporation or utility, and operates the facilities itself, to the extent necessary for operation of facilities, any of the employees whose duties pertain to the facilities acquired who have been employed by the corporation or utility, as the case may be, for at least 75 days shall be appointed to comparable

positions by the board without examination. These employees shall be given sick leave, seniority, and vacation credits in accordance with the records of the corporation or other acquired utility, as the case may be. No employee of the former corporation or utility shall suffer any worsening of wages, seniority, pension, vacation, or other benefits as they exist at the time of and by reason of the acquisition.

The board shall assume and observe all existing labor contracts of the former corporation or utility, as the case may be, insofar as they relate to the acquired facilities.

This section applies only to those officers or supervisory employees of the former corporation or utility, as the case may be, as shall be designated by the board.

SEC. 20. Section 120521 of the Public Utilities Code is amended to read:

120521. Whenever the board acquires ownership of existing facilities from a privately or publicly owned corporation or public utility, either in proceedings in eminent domain or otherwise, and terminates the corporation or operates the facilities itself, that has a pension plan in operation, the members and beneficiaries of the pension plan shall continue to have the rights, privileges, benefits, obligations, and status with respect to the plan.

The board shall consider, and take into account, the outstanding obligations and liabilities of the corporation or of the publicly or privately owned public utility, as the case may be, by reason of the pension plan, and may negotiate an allowance in the purchase price of the corporation or the utility for the assumption of those obligations and liabilities when acquiring the corporation or the utility.

SEC. 21. Section 120522 of the Public Utilities Code is amended to read:

120522. Whenever the board acquires ownership of existing facilities from a privately or publicly owned corporation or public utility, either in proceedings in eminent domain or otherwise and maintains the corporation or utility, by whatever name, as a separate, legal corporate entity, the board of directors of the corporation or utility shall continue its responsibilities with regard to its employees' wages, hours, and other terms and conditions of employment, existing labor contracts, and existing pension plans.

SEC. 22. A division heading is added immediately preceding Section 132000 of the Public Utilities Code, to read:

DIVISION 12.5. COUNTY AND REGIONAL TRANSPORTATION COMMISSIONS

SEC. 23. Chapter 2 (commencing with Section 132000) is added to Division 12.5 of the Public Utilities Code, to read:

CHAPTER 2. SAN DIEGO COUNTY REGIONAL TRANSPORTATION COMMISSION

Article 1. General Provisions, Findings, and Definitions

132000. This chapter shall be known and may be cited as the San Diego County Regional Transportation Commission Act.

132001. The Legislature hereby finds and declares all of the following:

(a) Recognizing the scarcity of resources available for all transportation development, alternative methods of financing provided in this chapter are needed to finance the cost of maintaining, acquiring, constructing, and developing facilities for transportation systems in the County of San Diego and these methods will increase economic opportunities, contribute to economic development, be in the public interest and serve a public purpose, and promote the health, safety, and welfare of the citizens within the County of San Diego.

(b) It is in the public interest to allow the voters of San Diego County to create the San Diego County Regional Transportation Commission so that local decisions can be implemented in a timely manner to provide improvements to the transportation system.

132002. "Bonds" means indebtedness and securities of any kind or class, including bonds, notes, bond anticipation notes, and commercial paper.

132003. "Commission" means the San Diego County Regional Transportation Commission created pursuant to this chapter in the County of San Diego.

132004. "County" means the County of San Diego.

132005. "San Diego Association of Governments" means the joint powers agency established pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code which is the transportation planning agency for the San Diego County region. Any board, commission, department, or officer succeeding to the functions of the association is granted the powers and duties of the association under this chapter.

132006. "Transit development boards" means the San Diego Metropolitan Transit Development Board and the North San Diego County Transit Development Board.

Article 2. Creation of the Commission

132050. There is hereby created the San Diego County Regional Transportation Commission in the county.

132051. The Board of Directors of the San Diego Association of Governments shall serve as the San Diego County Regional Transportation Commission.

132052. The commission shall not hire a staff, but shall use the staff of the San Diego Association of Governments and shall

compensate the San Diego Association of Governments for the use of staff services as set forth in Section 132103.

Article 3. Administration

132100. The joint powers agreement, bylaws, and all rules and regulations of the San Diego Association of Governments shall be the established rules for the proceedings and administration of the commission except as provided otherwise in this chapter.

132101. Meetings of the commission shall be held at least annually and as often as determined necessary by the commission.

132102. The acts of the commission shall be expressed by motion, resolution, or ordinance.

132103. The commission shall expend only that amount of the funds generated pursuant to this chapter for staff support, audit, administrative expenses, and contract services that are necessary and reasonable to carry out its responsibilities pursuant to this chapter.

132104. The commission shall do all of the following:

(a) Adopt an annual budget.

(b) Cause a postaudit of the financial transactions and records of the commission and of all revenues expended pursuant to this chapter to be made at least annually by a certified public accountant.

(c) Do any and all things necessary to carry out the purposes of this chapter.

132105. (a) The commission shall publish, pursuant to Section 6061 of the Government Code, notice of the time and place of the public hearing for the adoption of the annual budget not later than 15 days prior to the date of the hearing.

(b) The proposed annual budget shall be available for public inspection at least 15 days prior to the hearing.

132106. The initial meeting of the commission shall be held in the City of San Diego when called by the Board of Directors of the San Diego Association of Governments in order to approve a transactions and use tax ordinance and ballot proposition and call an election in accordance with Article 5 (commencing with Section 132300)

Article 4. Powers and Functions

132200. The commission may adopt a seal and alter it at its pleasure.

132201. The commission may sue and be sued, except as otherwise provided by law, in all actions and proceedings, in all court and tribunals of competent jurisdiction.

132202. All claims for money or damages against the commission are governed by Division 3.6 (commencing with Section 810) of Title 1 of the Government Code except as provided therein, or by other statutes or regulations expressly applicable thereto.

132203. The commission may make contracts and enter into stipulations of any nature whatsoever, including, but not limited to,

contracts and stipulations to indemnify and hold harmless, to employ labor, and to do all acts necessary and convenient for the full exercise of the powers granted in this chapter.

132204. The commission may contract with any department or agency of the United States of America, with any public agency, including, but not limited to, the Department of Transportation, the San Diego Association of Governments, or any transit development board, county, or city, or with any person upon any terms and conditions that the commission finds is in its best interest.

132205. The commission may provide and maintain, by contract with a public agency or by other means, a security force to enforce its regulations, preserve and protect any public transit system or project financed pursuant to this chapter, and preserve and protect the public peace, health, and safety with respect to its system or projects.

Article 5. Transactions and Use Tax

132300. The Legislature, by the enactment of this article, intends the additional funds provided government agencies by this article to supplement existing local revenues being used for public transportation purposes. The government agencies are further encouraged to maintain their existing commitment of local funds for public transportation purposes.

132301. A retail transactions and use tax ordinance applicable in the incorporated and unincorporated territory of the county shall be imposed by the commission in accordance with Section 132307 and Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, if a majority of the electors voting on the measure vote to approve its imposition at a special election called for that purpose by the commission. The tax ordinance shall take effect at the close of the polls on the day of election at which the proposition is adopted. The initial collection of the transactions and use tax shall take place in accordance with Section 132304.

If, at any time, the voters do not approve the imposition of the transactions and use tax, this chapter remains in full force and effect. The commission may, at any time thereafter, submit the same, or a different, measure to the voters in accordance with this chapter.

132302. The commission, in the ordinance, shall state the nature of the tax to be imposed, the tax rate or the maximum tax rate, the purposes for which the revenue derived from the tax will be used, and may set a term during which the tax will be imposed. The purposes for which the tax revenues will be used may include, but are not limited to, the administration of this chapter, including legal actions related thereto, the construction, capital acquisition, maintenance, and operation of streets, roads, and highways, including state highways, and the construction, maintenance, and operation of public transit systems, including exclusive public mass transit guideway systems. These purposes include expenditures for

the planning, environmental reviews, engineering and design costs, and related right-of-way acquisition. The ordinance shall contain an expenditure plan which shall include the allocation of revenues for the purposes authorized by this section.

132303. (a) The county shall conduct an election called by the commission pursuant to Section 132301.

(b) The election shall be called and conducted in the same manner as provided by law for the conduct of elections by a county.

132304. (a) Any transactions and use tax ordinance adopted pursuant to this article shall be operative on the first day of the first calendar quarter commencing more than 120 days after adoption of the ordinance.

(b) Prior to the operative date of the ordinance, the commission shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of the ordinance.

132305. The revenues from the taxes imposed pursuant to this article may be allocated by the commission for public transportation purposes consistent with the adopted regional transportation improvement program and the regional transportation plan.

132306. If taxes are imposed pursuant to this article for expenditure for public transit purposes, the commission shall allocate revenues derived therefrom to the transit development boards for allocation within their respective areas of jurisdiction for transit purposes consistent with the adopted regional transportation improvement program and the regional transportation plan.

132307. (a) The commission, subject to the approval of the voters, may impose a maximum tax rate of 1 percent under this chapter and Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, and the commission may state the maximum tax rate in terms of not to exceed 1 percent, or any lesser percentage thereof. The commission shall not levy the tax at a rate other than 1 percent or three-fourths, one-half, or one-fourth of 1 percent, unless specifically authorized by the Legislature.

(b) The tax rate adopted pursuant to this article, unless otherwise prohibited, may be increased by the commission by ordinance adopted in the manner and by the vote stated in Section 132301 and approved by a majority of the electors voting on the measure at an election called for that purpose by the commission.

132308. The commission may reduce a tax rate to percentages lower than that approved by the voters and may further provide for an increase of the tax rate if it has previously been lowered. However, the tax rate may not be increased to a rate above the tax rate approved by the voters.

Any revised tax rate may be adopted only if the commission determines, by a two-thirds vote, that the proceeds of the taxes with the altered tax rate will be sufficient to provide for the payment of principal of, and interest on, any limited tax bonds and any other indebtedness incurred by the commission which was to be payable

from the proceeds of the retail transactions and use tax.

132309. (a) The commission, as part of the ballot proposition to approve the imposition of a retail transactions and use tax, shall seek authorization to issue bonds payable from the proceeds of the tax and establish the appropriations limit of the commission.

(b) The maximum bonded indebtedness which may be outstanding at any one time shall be an amount equal to the sum of the principal of, and interest on, the bonds, but not to exceed the estimated proceeds of the transactions and use tax for a period of not more than the number of years for which the transactions and use tax authorized by this article is to be imposed.

132310. (a) The bonds authorized by the voters concurrently with the approval of the retail transactions and use tax may be issued by the commission at any time, and from time to time, payable from the proceeds of the tax. The bonds shall be referred to as "limited tax bonds." The bonds may be secured by a pledge of revenues from the proceeds of the tax.

(b) The pledge of retail transactions and use taxes to the limited tax bonds authorized under this article shall have priority over the use of any of the taxes for "pay-as-you-go" financing, except to the extent that the priority is expressly restricted in the resolution authorizing the issuance of the bonds.

132310.5. The commission 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.

132311. Limited tax bonds shall be issued pursuant to a resolution adopted at any time, and from time to time, by the commission by a two-thirds vote of all members of the commission.

The commission may from time to time issue bonds in accordance with 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), for the purposes set forth in the ordinance adopted pursuant to Section 132302, which shall constitute an "enterprise" within the meaning of Section 54309 of the Government Code. Article 3 (commencing with Section 54380) of Chapter 6 of Part 1 of Division 2 of Title 5 of the Government Code and the limitations on the rate of interest set forth in subdivision (b) of Section 54402 of the Government Code do not apply to the issuance and sale of bonds pursuant to this chapter. Instead, the commission shall authorize the issuance of bonds by resolution, which resolution shall specify all of the following:

(a) The purposes for which the bonds are to be issued.

(b) The maximum principal amount of the bonds.

(c) The maximum term for the bonds.

(d) The maximum rate of interest to be payable upon the bonds shall not exceed the maximum rate permitted for bonds of the commission by Section 53531 of the Government Code or any other applicable provisions of law. In the case of bonds bearing a variable interest rate, the variable rate shall on no day exceed the maximum

rate permitted for bonds of the commission on that day by Section 53531 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 53531 of the Government Code or any other applicable provisions of law.

(e) The maximum discount on the sale of the bonds. However, the bonds shall not be sold at less than 95 percent of the principal amount in the manner determined by the commission. Each resolution shall provide for the issuance of bonds in the amounts as may be necessary, until the full amount of the bonds authorized has been issued. The full amount of bonds may be divided into two or more series with different dates of payment fixed for the bonds of each series. A bond need not mature on its anniversary date.

132312. Any bonds issued pursuant to this article are a legal investment for all trust funds; for the funds of insurance companies, commercial and savings banks, and trust companies; and for state school funds. Whenever any money or funds may, by any law now or hereafter enacted, be invested in bonds of cities, counties, school districts, or other districts within the state, those funds may be invested in the bonds issued pursuant to this article, and whenever bonds of cities, counties, school districts, or other districts within this state may, by any law now or hereafter enacted, be used as security for the performance of any act or the deposit of any public money, the bonds issued pursuant to this article may be so used. The provisions of this article are in addition to all other laws relating to legal investments and shall be controlling as the latest expression of the Legislature with respect thereto.

132313. Any action or proceeding wherein the validity of the adoption of the retail transactions and use tax ordinance provided for in this article or the issuance of any bonds thereunder or any of the proceedings in relation thereto is contested, questioned, or denied, shall be commenced within six months from the date of the election at wich the ordinance is approved; otherwise, the bonds and all proceedings in relation thereto, including the adoption and approval of the ordinance, shall be held to be valid and in every respect legal and incontestable.

132314. The commission has no power to impose any tax other than the transactions and use tax imposed upon approval of the voters in accordance with this chapter.

SEC. 24. Section 7252.7 is added to the Revenue and Taxation Code, to read:

7252.7. "District," as used in this part, also means the San Diego County Regional Transportation Commission, if authorized to impose transactions and use taxes pursuant to this part.

SEC. 25. Section 22 of this act shall become operative only if no statute is enacted during the 1985 portion of the 1985–86 Regular Session of the Legislature to add Division 12.5 (commencing with Section 131000) to the Public Utilities Code.

SEC. 26. No appropriation is made by this act pursuant to Section 6 of Article XIII B of the California Constitution because (1) this act is in accordance with the request of a local agency which desired legislative authority to carry out the program specified in this act, (2) self-financing authority is provided in Section 22003 of the Elections Code to cover any costs that may be incurred in carrying on any program or performing any service required to be carried on or performed by this act, and (3) the only other 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 1577

An act to add Chapter 8 (commencing with Section 15399) to Part 6.7 of Division 3 of Title 2 of the Government Code, relating to economic development, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Chapter 8 (commencing with Section 15399) is added to Part 6.7 of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 8. THE CALIFORNIA MAIN STREET PROGRAM

15399. The Legislature finds and declares the following:

(a) Business districts of this state's smaller communities are essential elements to cities' sense of community and the state's economy.

(b) In recent years these central business districts have experienced economic difficulties due to shifting population bases, changes in the marketplace, and greater competition from suburban shopping malls.

(c) This decline has further eroded the ability of small businesses and property owners to renovate and enhance their commercial and residential properties.

(d) Merchants in the smaller cities are also experiencing greater difficulties in obtaining financial aid at reasonable interest rates,

thereby further inhibiting their ability to develop new business as well as continue existing operations.

15399.1. It is the intent of the Legislature to establish in the Department of Commerce a program, the California Main Street Program, to provide technical assistance and training for small cities' government, business organizations, and merchants and property owners to accomplish community and economic revitalization and development of older central business districts and neighborhoods.

It is the further intent of the Legislature that this program shall employ the techniques developed by the National Trust of Historic Preservation's Main Street Center which are designed to stimulate business reinvestment, restore building facades, retain existing small businesses, strengthen the local tax base, create employment opportunities, promote new businesses in downtown areas, and help to create a renewed sense of community pride. The Legislature further intends that this program be a joint state, local government, and private sector partnership utilizing private and public financial resources.

For purposes of this chapter, "department" means the Department of Commerce.

15399.2. There is hereby created within the Department of Commerce a California Main Street Program which shall operate according to a plan developed by the department with the assistance of all of the following:

(a) Organizations representing merchants and governments of small cities, historic preservation interests, financial institutions, and economic development groups.

(b) The California private industry councils.

(c) The Office of Small Business Development, the Office of Local Development, and the Small Business Development Center within the Department of Commerce.

(d) The Office of Historic Preservation.

(e) The Department of Housing and Community Development.

(f) The chairpersons of the following committees of the Legislature:

(1) The Assembly Select Committee on Small Business.

(2) The Senate Select Committee on Small Business Enterprises.

(3) The Assembly Committee on Economic Development and New Technologies.

(4) The Joint Committee on the State's Economy.

These chairpersons shall assist in the development of the plan to the extent that their participation is not incompatible with their positions as Members of the Legislature.

(g) The California Preservation Foundation.

15399.3. The plan required by Section 15399.2 shall describe the objectives and strategies of the California Main Street Program how the program will be coordinated with existing federal, state, local, and private sector small business development and historic preservation efforts, the means by which private investments will be

solicited and employed, and methods of selecting and providing assistance to participating and demonstration communities.

15399.4. In order to implement this program, the department shall do all of the following:

(a) Contract with the National Main Street Center of the National Trust for Historic Preservation to assist in accomplishing the program's objectives, to provide technical assistance to the department, and to assist in developing criteria for the selection of, and aid in selecting, the participating and demonstration communities.

(b) Designate a program manager and staff.

(c) Develop objective criteria for selecting the participating and demonstration communities. The criteria shall include, but shall not be limited to, all of the following:

(1) Evidence of interest and commitment to downtown economic development and historic preservation by both the private and public sectors.

(2) Evidence of potential private investment in the downtown area.

(3) A downtown with sufficient historic fabric to become a foundation for an enhanced community image.

(4) Organization and financial commitment to implement a long-term economic revitalization program which includes a commitment to employ a full-time, professional project manager with an operating budget.

(d) Devise a method of inviting eligible communities to submit applications, and select five demonstration communities for the program's first year and additional participating communities in subsequent years.

(e) Include in the program, in addition to the demonstration communities, any city which has on the effective date of this chapter a contract with the National Trust's Main Street Center for a local Main Street Program.

15399.5. The program established pursuant to this chapter shall be made available only to cities and communities which have a population of under 50,000.

15399.6. In order to reduce costs to the state, the department shall include in the plan a means to solicit private contributions for state and local operations of the program.

15399.7. There is hereby established in the State Treasury the California Main Street Program Fund. All private contributions, state and federal funds, and fees for services, if levied, shall be deposited into the fund for the operation of the program.

15399.8. The department shall include in its annual report to the Legislature a special report on the effectiveness of this program on the economic vitality of smaller cities' business communities.

SEC. 2. (a) The sum of two hundred fifty thousand dollars ($250,000) is hereby appropriated from the General Fund to the California Main Street Program Fund.

(b) The sum of two hundred fifty thousand dollars ($250,000) is hereby appropriated from the California Main Street Program Fund to the Department of Commerce for the 1985–86 fiscal year for the purposes of hiring a program manager and support staff, and sufficient operating expenses and funding, including a contract with the National Main Street Center to operate the California Main Street Program pursuant to this act. From this amount, an amount not to exceed ten thousand dollars ($10,000) shall be allocated to carry out subdivision (e) of Section 15399.4 of the Government Code, as added by 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 California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to promptly proceed with implementation of a program that will provide significant employment opportunities in small cities facing considerable economic difficulties, including high rates of unemployment, it is essential that this act take effect immediately.

CHAPTER 1578

An act to add Article 6 (commencing with Section 4910) to Chapter 11 of Division 2 of the Business and Professions Code, and to amend Sections 13401 and 13402 of the Corporations Code, relating to professional corporations.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Article 6 (commencing with Section 4910) is added to Chapter 11 of Division 2 of the Business and Professions Code, to read:

Article 6. Veterinary Corporations

4910. A veterinary corporation is a corporation which is authorized to render professional services, as defined in Section 13401 of the Corporations Code, so long as that corporation and its shareholders, officers, directors, and employees rendering professional services who are licensed veterinarians are in compliance with the Moscone-Knox Professional Corporation Act (Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code), this article, and all other statutes and regulations pertaining to the corporation and the conduct of its affairs. With respect to a veterinary corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation

Act (Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code) is the Board of Examiners in Veterinary Medicine.

4911. Notwithstanding any other provision of law, the name of a veterinary corporation and any name or names under which it renders professional services shall include the words "veterinary corporation" or wording or abbreviations denoting corporate existence.

4912. Except as provided in Section 13403 of the Corporations Code, each director, shareholder, and officer of a veterinary corporation shall be a licensed person as defined in Section 13401 of the Corporations Code.

4913. The income of a veterinary corporation attributable to professional services rendered while a shareholder is a disqualified person (as defined in Section 13401 of the Corporations Code) shall not in any manner accrue to the benefit of that shareholder or his or her shares in the veterinary corporation.

4914. A veterinary corporation shall not do or fail to do any act the doing of which or the failure to do which would constitute unprofessional conduct under any statute, rule, or regulation now or hereafter in effect. In the conduct of its practice, it shall observe and be bound by such statutes, rules and regulations to the same extent as a person holding a license under Section 4848.

4915. It shall constitute unprofessional conduct and a violation of this chapter, punishable as specified in Section 4831, for any person licensed under this chapter to violate, attempt to violate, directly or indirectly, or assist in or abet the violation of, or conspire to violate, the Moscone-Knox Professional Corporation Act (Part 4 (commencing with Section 13400), of Division 3 of Title 1 of the Corporations Code), this article, or any regulation adopted pursuant to those provisions.

4916. The board may formulate and enforce rules and regulations to carry out the purposes and the objectives of this article, including rules and regulations requiring (1) that the articles of incorporation or bylaws of a veterinary corporation shall include a provision whereby the capital stock of the corporation owned by a disqualified person (as defined in Section 13401 of the Corporations Code), or a deceased person, shall be sold to the corporation or to the remaining shareholders of the corporation within such time as such rules and regulations may provide, and (2) that a veterinary corporation shall provide adequate security by insurance or otherwise for claims against it by its patients arising out of the rendering of professional services.

4917. Nothing in this article requires an applicant for or a holder of a certificate of registration of veterinary premises described in Section 4853 to be a veterinary corporation.

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 the 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 State Board of Pharmacy, or the Board of Examiners in Veterinary Medicine 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 or she 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 professional services which the particular professional corporation of which he or she is an officer, director, shareholder, or employee is or was rendering.

SEC. 3. Section 13402 of the Corporations Code is amended to read:

13402. (a) This part shall not apply to any corporation now in existence or hereafter organized which may lawfully render professional services other than pursuant to this part, nor shall anything herein contained alter or affect any right or privilege, whether under any existing or future provision of the Business and Professions Code or otherwise, in terms permitting or not prohibiting performance of professional services through the use of any form of corporation permitted by the General Corporation Law.

(b) This part does not apply to any corporation in existence on January 1, 1986, or which is thereafter established, organized under the General Corporation Law (Division 1 (commencing with Section 100) of Title 1), which is engaged in any lawful business pursuant to the terms of those provisions of law.

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 1579

An act to amend Sections 14016.5, 14016.6, and 14462 of, and to add Article 8 (commencing with Section 14499.7) to Chapter 8 of Part 3 of Division 9 of, the Welfare and Institutions Code, relating to the medical assistance program.

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

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

SECTION 1. Section 14016.5 of the Welfare and Institutions Code is amended to read:

14016.5. (a) At the time of determining or redetermining the eligibility of a Medi-Cal applicant or beneficiary who resides in an area served by a prepaid health plan or pilot program in which beneficiaries may enroll, the county shall inform the Medi-Cal applicant or beneficiary of options available regarding methods of receiving Medi-Cal benefits included in subdivisions (b) and (c).

(b) Each Medi-Cal beneficiary and eligible applicant shall indicate their choice in writing, as a condition of coverage for Medi-Cal benefits, of either of the following health care options:

(1) To obtain benefits by receiving a monthly Medi-Cal card, which may be used to obtain services from individual providers who choose to provide services to Medi-Cal beneficiaries.

(2) To obtain benefits by enrolling in a prepaid health plan or pilot program contracting with the department to service Medi-Cal beneficiaries.

(c) Until such time as a Medi-Cal beneficiary or eligible applicant makes a choice, the person shall be provided with a monthly Medi-Cal card.

(d) The department shall ensure that Medi-Cal beneficiaries eligible under Title XVI of the Social Security Act are provided with information about options available regarding methods of receiving Medi-Cal benefits included in subdivisions (b) and (c).

In areas where there is no prepaid health plan or pilot program which has contracted with the department to provide services to Medi-Cal beneficiaries, no explicit choice need be made, and the beneficiary or eligible applicant shall receive a monthly Medi-Cal card.

SEC. 2. Section 14016.6 of the Welfare and Institutions Code is amended to read:

14016.6. The State Department of Health Services shall develop a program to implement the provisions of Section 14016.5. The program shall include, but not be limited to, the following components:

(a) Development of a method to inform beneficiaries and applicants of their choices for receiving Medi-Cal benefits including

the solicitation from representatives of the fee-for-service sector and from prepaid health plans, or pilot programs marketing materials including printed materials, films, and exhibits, to be provided to Medi-Cal beneficiaries and applicants when choosing methods of receiving health care benefits. The department shall not be responsible for the costs of developing this material.

The department may prescribe the format and edit such materials for factual accuracy, objectivity and comprehensibility. The department shall use such edited materials in informing beneficiaries and applicants of their choices for receiving Medi-Cal benefits.

(b) Provision of information that is necessary to implement this program in a manner that fairly and objectively explains to beneficiaries and applicants their choices for methods of receiving Medi-Cal benefits, including information prepared by the department summarizing the benefits and restrictions to beneficiaries enrolled in prepaid health plans as opposed to the fee-for-service system.

(c) Provision of information about providers who will provide services to Medi-Cal beneficiaries. This may be information about provider referral services of a local provider professional organization. The information shall be made available to Medi-Cal beneficiaries and applicants at the same time the beneficiary or applicant is being informed of the options available for receiving care.

(d) Training of specialized county employees to carry out the program.

(e) Monitoring the implementation of the program in those county welfare offices where choices are made available in order to assure that beneficiaries and applicants may make a well-informed choice, without duress.

The responsibilities outlined in this section shall, at the option of the department, be carried out by a specially trained county or state employee or by an independent contractor paid by the department. If a county sponsored prepaid health plan or pilot program is offered, the responsibilities outlined in this section shall be carried out either by a specially trained state employee or by an independent contractor paid by the department.

(f) The department shall adopt any regulations as are necessary to ensure that the informing of beneficiaries of their health care options is a part of the eligibility determination process.

SEC. 3. Section 14462 of the Welfare and Institutions Code, as added by Chapter 523 of the Statutes of 1983, is amended to read:

14462. (a) Except as otherwise provided in this chapter, each prepaid health plan shall be responsible for all of the costs of services rendered under the provisions of this chapter to any Medi-Cal beneficiary enrolled in the plan.

(b) The department shall bear the costs of providing to each Medi-Cal beneficiary enrolled in a prepaid health plan the services

covered under the plan, to the extent that the aggregate of these costs, based on Medi-Cal reimbursement levels, and exclusive of third-party recoveries, exceeds the 12-month risk limit. The risk limit shall not exceed twenty-five thousand dollars ($25,000) based on Medi-Cal reimbursement levels, shall be specified in the contract between the department and the plan, and shall be determined concurrently with the annual determination of rates of payment.

The department shall have the authority to adopt regulations to increase the risk limit, to an amount not to exceed thirty-five thousand dollars ($35,000). Regulations to increase the risk limit shall be based upon and supported by:

(a) Changes in prepaid health plan rates paid by the department.

(b) Changes in the medical component of the Consumer Price Index (CPI) as actuarially determined by the department. It is the intent of the Legislature that these risk limit adjustments are not to exceed thirty-five thousand dollars ($35,000) until the 1986–87 fiscal year or beyond. For plans having contracts in existence on the effective date of this section, the risk limit shall be announced on or before the first day of each state fiscal year, to become effective concurrently with the effective date for the new rates of payment for the next succeeding state fiscal year.

The department may negotiate with a prepaid health plan a mutually agreed-to risk limit in an amount in excess of thirty-five thousand dollars ($35,000).

Within 90 days of the receipt of the documentation required under paragraph (2) of subdivision (b), the department shall pay the reimbursement provided for by this section to the extent that it determines that the services rendered were medically necessary, and that the amount of the payments sought for those services is reasonable. The department may, if a dispute exists as to whether the services rendered were medically necessary or if the amount of the payments for those services was reasonable, delay paying the reimbursement for such services until a final determination of the dispute is made.

(1) Each prepaid health plan shall arrange and provide initial payment, at Medi-Cal reimbursement levels, for medically necessary care for any Medi-Cal beneficiary enrolled in the plan when the cost for this care exceeds the 12-month risk limit. No person shall be disenrolled by any prepaid health plan for the sole reason that the cost of his or her care under the plan has exceeded the risk limit.

(2) As a condition of reimbursement for costs of care in excess of the risk limit as to a Medi-Cal beneficiary enrolled in a prepaid health plan, the plan must submit to the department, in a format to be designated by the department, documentation of all costs incurred for services to the beneficiary during the 12-month period.

(c) No prepaid health plan may enter into any subcontract that would in any way limit its obligation assumed under this chapter to retain the significant risk of the cost of services rendered under this chapter to any Medi-Cal beneficiary enrolled in the plan.

(d) As a condition of the department's approval of any subcontract entered into by a prepaid health plan under this chapter, the plan shall specify its retention of significant risk by designating one of the options under subdivision (e) as its operating definition of significant risk, or by any other method approved by the department that would meet the requirement set forth in subdivision (c).

(e) "Significant risk" means financial responsibility for either of the following:

(1) All expenditures in excess of 115 percent of the specified total expenditures estimated under each subcontract.

(2) All inpatient hospitalization expenditures as determined by the department, including expenditures for services connected with hospitalization.

SEC. 4. Article 8 (commencing with Section 14499.7) is added to Chapter 8 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:

Article 8. Medi-Cal At-Risk Fiscal Intermediaries

14499.7. The department may contract with one or more fiscal intermediaries in order to pay for benefits authorized under this chapter and Chapter 7 (commencing with Section 14000). Contracts entered into pursuant to this article may be awarded on a bid or nonbid basis.

14499.71. For the purposes of this article, "fiscal intermediary" means an entity that agrees to pay for covered services provided to Medi-Cal eligibles in exchange for a premium, subscription charge, or capitation payment; to assume an underwriting risk; and is either licensed by the Commissioner of Corporations under the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) or is licensed as a nonprofit hospital service plan by the Insurance Commissioner pursuant to subdivision (e) of Section 11493 of the Insurance Code and Sections 11501 to 11505, inclusive, of the Insurance Code.

14499.73. A contract entered into under this article shall provide that a fiscal intermediary meets both of the following criteria:

(a) The fiscal intermediary shall provide or arrange for an adequate number of primary care physicians and supportive specialty care physicians.

(b) The fiscal intermediary shall implement a management and information reporting system in order to determine the costs of each type of health care service rendered to Medi-Cal recipients.

14499.74. In determining the capitated rates to be paid to a fiscal intermediary during the first year of contracting under this article, the department shall utilize an acceptable actuarial process and historical data concerning Medi-Cal recipients in the geographical area which will, or is being, served by the fiscal intermediary. During

the remaining years of the contract with the fiscal intermediary, the department shall utilize data concerning Medi-Cal expenditures for delivery of services based on the fee-for-service experience in comparable geographic areas. The capitated rates shall not exceed the total per capita amount (including the cost of adjustments to provide actuarial equivalence) which would be payable for all services and requirements covered under the fiscal intermediary contract adopted pursuant to this article if all those services and requirements were to be furnished to Medi-Cal beneficiaries under the fee-for-service Medi-Cal program provided for by Chapter 7 (commencing with Section 14000).

14499.75. A fiscal intermediary may contract for the provision of services with any provider who would be eligible to provide services if services were to be provided on a fee-for-service basis without the use of a fiscal intermediary pursuant to this article.

14499.77. All services, except those specified for exclusion by the department, received by Medi-Cal recipients residing in the geographical area served by the fiscal intermediary shall be paid for by the fiscal intermediary. Services shall be provided only by providers which have entered into agreements with the fiscal intermediary, unless authorized by the fiscal intermediary.

SEC. 5. The State Department of Health Services shall adopt any regulations necessary to implement this act.

SEC. 6. (a) Any provision of this act which is in conflict with any federal statute or regulation shall be inapplicable to the extent of the conflict, subject to subdivision (c), but the remainder of the provisions shall be unaffected to the extent no conflict exists.

(b) The State Department of Health Services shall seek all federal waivers necessary to implement 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.

(c) 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 provision or application, and to this end the provisions of this act are severable.

SEC. 7. 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 1580

An act to add Section 35155.5 to the Government Code, relating to local agencies.

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

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

SECTION 1. Section 35155.5 is added to the Government Code, to read:

35155.5. If the report filed pursuant to Section 54794 indicates that more than 50 percent of the land proposed for incorporation is owned by or dedicated to the use of a city or county and that the proposed incorporation would result in a revenue loss to that city or county, and at the hearing held pursuant to Section 35155 the board of supervisors of the county or city council of the city presents a resolution objecting to the incorporation, no further proceedings shall be conducted by the commission and no new proposal involving incorporation of substantially the same territory shall be initiated for one year.

In the absence of a resolution of objection from a city or county, the commission may approve the proposal only if it imposes as a condition thereto that the newly incorporated city may not adopt any regulation or policy which would have a negative fiscal impact on any contract existing at the time of the incorporation which is related to the publicly owned land.

This section shall not preclude the completion of proceedings to incorporate territory which is the subject of incorporation proceedings filed with the executive officer of the commission prior to February 15, 1986.

CHAPTER 1581

An act to add Section 1596.865 to the Health and Safety Code, relating to child day care facilities, and making an appropriation therefor.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 1596.865 is added to the Health and Safety Code, to read:

1596.865. (a) It is the intent of the Legislature to encourage any person who provides child care in a child day care facility licensed

pursuant to this chapter, Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) to have the following elementary health care training:

(1) Cardiopulmonary resuscitation.

(2) Pediatric first aid.

(3) Preventive health practices that reduce the spread of infectious diseases.

(b) The State Department of Education shall convene a task force composed of representatives of the following: three representatives of the American Academy of Pediatrics, one public health nurse, one county director of maternal and child health, one health educator, one representative of the child resource and referral programs, two representatives of family day care operators, one representative of publicly funded child care centers, two representatives of major regional associations representing privately operated child care centers, two representatives of parents with children in child care facilities, one representative of the Governors' Child Development Programs Advisory Committee, and one representative of the State Department of Social Services. The task force members shall be appointed by the Superintendent of Public Instruction.

The task force shall, by September 30, 1987, survey existing child health care training curricula, materials, and dissemination efforts, develop a child health care curriculum and materials to meet the intent of subdivision (a), and determine the most efficient cost-effective method of delivering this training in a readily accessible manner to licensed child care providers across the state, the feasibility of requiring this training as a condition of licensure for child day care facilities licensed as described in subdivision (a), reasonable time periods in which the training shall be acquired by persons who are in licensed facilities, how often child care providers shall update their training, the type of other coursework which may substitute for this training, and the feasibility of requiring this training for family day care operators.

(f) The State Department of Education may contract with an independent consultant to coordinate the efforts of this task force and shall provide secretarial support.

(g) The State Department of Education may contract with an independent consultant for the period of October 1, 1987, to March 31, 1988, to make the training program operational.

SEC. 2. The sum of fifty thousand dollars ($50,000) is hereby appropriated from the General Fund to the State Department of Education for the period of January 1, 1986, to September 30, 1987, for the work of the task force pursuant to Section 1596.865 of the Health and Safety Code.

SEC. 3. The State Department of Education shall, in the spring of 1988, report to the appropriate legislative budget subcommittees the expected yearly cost for providing the training.

CHAPTER 1582

An act to amend Section 5012.5 of the Education Code, to amend Sections 3701, 3702, 3703, 3704, 3706, 3709, 3756, 14253, 25305, and 25500 of, to add Sections 3704.5, and 3755.5 to, to repeal Section 23512.8 of, and to repeal and add Sections 3712, 3714, and 23512.8 of, the Elections Code, to amend Sections 23722 and 36503.7 of the Government Code, and to amend Sections 21101 and 21560 of the Water Code, relating to elections.

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

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

SECTION 1. Section 5012.5 of the Education Code is amended to read:

5012.5. Notwithstanding the provisions of Section 5012, if a declaration of candidacy for an incumbent member of a school district or community college district governing board or of a county board of education is not filed by 5 p.m. on the 88th day before the election, any person, other than the person who was the incumbent on the 88th day, shall have until 5 p.m. on the 83rd day before an election to file a declaration of candidacy for the elective office.

This section is not applicable where there is no incumbent eligible to be elected.

SEC. 2. Section 3701 of the Elections Code is amended to read:

3701. Any proposed ordinance may be submitted to the board of supervisors by filing an initiative petition with the county clerk, signed by not less than the number of voters specified in this article.

Each petition section shall comply with the requirements of Sections 41 and 3516 and contain a full and correct copy of the notice of intention and accompanying statement including the full text of the proposed ordinance.

SEC. 3. Section 3702 of the Elections Code is amended to read:

3702. (a) Before circulating any initiative petition in a county, or any petition relating to the annexation of territory by a county, the consolidation of counties, or the dissolution of a county, its proponents shall publish a notice of intention so to do. The notice shall be accompanied by a printed statement, not exceeding 500 words in length, stating the reasons for the proposed petition.

(b) The notice and statement prescribed in subdivision (a) shall be published at least once in a newspaper of general circulation published in that county.

(c) The notice shall be in substantially the following form:

Notice of Intention 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 County of _____ for the purpose of _____. A statement of the reasons of the proposed action as contemplated in the petition is as follows:

SEC. 4. Section 3703 of the Elections Code is amended to read:

3703. Within 10 days after the date of the publishing of the notice and statement, the proponents shall file a copy of the notice, statement, and an affidavit of the publishing thereof with the county clerk.

The county clerk shall ascertain the number of signatures required to sign the petition by obtaining the number of votes cast within the county for all candidates for Governor at the last gubernatorial election preceding the publication of the notice of intention to circulate the initiative petition.

SEC. 5. Section 3704 of the Elections Code is amended to read:

3704. Twenty-one days after the publication of the notice and statement, the petition may be circulated among the voters of the county.

SEC. 6. Section 3704.5 is added to the Elections Code, to read:

3704.5. Each petition section shall have attached to it an affidavit to be completed by the circulator. The affidavit shall be substantially in the same form as set forth in Section 44.

SEC. 7. Section 3706 of the Elections Code is amended to read:

3706. The petition shall be filed by the proponents, or by any person or persons authorized, in writing, by the proponents. All sections of the petition shall be filed at one time. Any sections of the petition not so filed shall be void for all purposes.

When the petition is filed, the county clerk shall determine the total number of signatures affixed to the petition. If, from this examination, the clerk determines that the number of signatures, prima facie, equals or is in excess of the minimum number of signatures required, the county clerk shall examine the petition in accordance with Section 3707 or 3708. If, from this examination, the clerk determines that the number of signatures, prima facie, does not equal or exceed the minimum number of signatures required, no further action shall be taken and the petition shall be preserved, as provided in Section 3756.

SEC. 8. Section 3709 of the Elections Code is amended to read:

3709. If the initiative petition is signed by voters not less in number than 20 percent of the entire vote cast within the county for all candidates for Governor at the last gubernatorial election preceding the publication of the notice of intention to circulate an initiative petition, and contains a request that the ordinance be submitted immediately to a vote of the people at a special election, the board of supervisors shall either:

(a) Pass the ordinance without alteration either at the regular

meeting at which it is presented or within 10 days after it is presented.

(b) Immediately call a special election at which the ordinance, without alteration, shall be submitted to a vote of the voters of the county.

SEC. 9. Section 3712 of the Elections Code is repealed.

SEC. 10. Section 3712 is added to the Elections Code, to read:

3712. The county clerk shall publish a notice of the election pursuant to Sections 2554 and 2653.

SEC. 11. Section 3714 of the Elections Code is repealed.

SEC. 12. Section 3714 is added to the Elections Code, to read:

3714. Article 3 (commencing with Section 3780) shall govern the procedures for submitting arguments for county initiatives.

SEC. 13. Section 3755.5 is added to the Elections Code, to read:

3755.5. (a) The heading of a proposed referendum measure shall be in substantially the following form:

Referendum Against an Ordinance Passed by the Board of Supervisors.

(b) Each section of the referendum petition shall contain the title and text of the ordinance or the portion of the ordinance which is the subject of the referendum.

SEC. 14. Section 3756 of the Elections Code is amended to read:

3756. An initiative or referendum petition received or filed in the office of the county clerk shall be preserved until eight months after the certification of the results of the election for which the petition qualified or, if the measure, for any reason, is not submitted to the voters, eight months after the clerk's final examination of the petition. Public access to any such petition shall be restricted in accordance with the provisions of Section 6253.5 of the Government Code. At the end of the eight-month period, the petition shall be destroyed as soon as practicable unless it is in evidence in some action or proceeding then pending, or unless the clerk has received a written request from the Attorney General, the Secretary of State, the Fair Political Practices Commission, a district attorney, a grand jury, or the governing body of a county, city and county, or district including a school district, that the petition be preserved for use in a pending or ongoing investigation into election irregularities, or in a pending or ongoing investigation into a violation of the Political Reform Act of 1974 as set forth in Title 9 (commencing with Section 81000) of the Government Code.

SEC. 15. Section 14253 of the Elections Code is amended to read:

14253. (a) At all elections a voter claiming to be properly registered, and whose qualification or entitlement to vote cannot be immediately established upon examination of the index of registration for the precinct or upon examination of the records on file with the county clerk, shall be entitled to vote a provisional ballot. The provisional ballot shall be substantially in the form of the

absentee ballot.

(b) Once voted, the voter's ballot shall be sealed in a provisional ballot envelope, and the ballot in its envelope shall be placed in a sealed container reserved for that purpose. The provisional ballot envelopes specified in this subdivision shall be printed in a color different than the color of, but substantially similar to the envelopes used for absentee ballots and shall be completed in the same manner as absentee envelopes.

(c) During the official canvass, the clerk shall examine the records of registration with respect to all provisional ballots cast because the voter's affidavit of registration was not immediately available.

Provisional ballots shall not be included in any semiofficial or official canvass, except upon (1) the clerk's establishing prior to the completion of the official canvass, from the records in his or her office, the claimant's right to vote or (2) order of a superior court in the county of the voter's residence. A voter may seek the court order specified in this section regarding his or her own ballot at any time prior to completion of the official canvass. Any judicial action or appeal shall have priority over all other civil matters.

A precinct board member shall notify the voter of the contents of this subdivision at the time of receiving the provisional ballots.

(d) The Secretary of State may adopt appropriate regulations for purposes of assuring the uniform application of this section.

(e) This section shall not apply to the situations described in Sections 804 and 14216.

(f) Any existing supply of envelopes marked "special challenged ballot" may be used until the supply is exhausted.

(g) This section shall be operative until January 1, 1990, and as of that date is repealed.

SEC. 16. Section 23512.8 of the Elections Code is repealed.

SEC. 17. Section 23512.8 is added to the Elections Code, to read:

23512.8. The affidavit to be completed by the circulator shall be substantially in the same form as set forth in Section 44.

SEC. 18. Section 25305 of the Elections Code is amended to read:

25305. If an incumbent of a judicial office dies on or before the last day prescribed for the filing of nomination papers, or for any reason fails to file his or her nomination papers by the last day prescribed for the filing of such papers, an additional five days shall be allowed for the filing of nomination papers for the office. Any person, other than the person who was the incumbent, if otherwise qualified, may file nomination papers for the office during the extended period, notwithstanding that he or she has not filed a written and signed declaration of intention to become a candidate for the office as provided in Sections 25301 and 25302.

SEC. 19. Section 25500 of the Elections Code is amended to read:

25500. (a) Each candidate for a party nomination for the office of State Senator or Member of the Assembly at the direct primary election shall file a written and signed declaration of his or her intention to become a candidate for his or her party's nomination for

that office. The declaration of intention shall be filed with either the Secretary of State or the clerk of the county in which the candidate is a resident. The declaration of intention shall be filed, on a form to be supplied by the county clerk or registrar of voters, not more than 14 nor less than five days prior to the first day on which nomination papers may be presented for filing; provided, however, if the incumbent fails to file a declaration of intention by the end of such period, persons other than the incumbent may file declarations of intention no later than the first day for filing nomination papers. The declaration of intention provided for in this section shall be in substantially the following form:

I hereby declare my intention to become a candidate for the _____ (Name of political party)

Party's nomination for the office of

_____

(Name of office and district)

at the direct primary election.

_____

(Signature of candidate)

_____

(Address of candidate)

(b) No person may be a candidate nor have his or her name printed upon any ballot as a candidate for a party nomination for the office of State Senator or Member of the Assembly at the direct primary election unless he or she has filed the declaration of intention provided for in this section; provided, however, that if the incumbent of the office files a declaration of intention, but for any reason fails to qualify for nomination for the office by the last day prescribed for the filing of nomination papers, an additional five days shall be allowed for the filing of nomination papers for the office, and any person, other than the incumbent if otherwise qualified, may file nomination papers for the office during the extended period, notwithstanding that he or she has not filed a written and signed declaration of intention to become a candidate for the office as provided in subdivision (a).

SEC. 20. 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.

SEC. 21. Section 36503.7 of the Government Code is amended to read:

36503.7. If the date of a general municipal election is changed pursuant to Section 36503.5, or by charter, notwithstanding Section 22836 of the Elections Code, the period to file as a candidate for the general municipal election shall be the same as the nomination period to file as a candidate for the election in which the general municipal election is consolidated.

SEC. 22. Section 21101 of the Water Code is amended to read:

21101. Notwithstanding Sections 23506 and 23556 of the Elections Code, elective officers, irrespective of the method of their selection, take office as soon as they qualify, except that officers elected at a general district election take office at noon on the last Friday in December next following the general district election.

SEC. 23. Section 21560 of the Water Code is amended to read:

21560. If an order made pursuant to this article changes the number of divisions, the terms of office of all directors shall expire at noon on the last Friday in December following the next general district election after the order, and the directors elected at that election shall be equal in number to the number of divisions as changed and these directors shall at their first meeting classify themselves and determine the length of their respective terms in the manner provided in subdivision (c) of Section 23506 of the Elections Code.

SEC. 24. No appropriation is made by this act pursuant to Section 6 of Article XIII B of the California Constitution because this bill does not mandate a new program or higher level of service on local government. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 4 (commencing with Section 17550) of Part 7 of Division 4 of Title 2 of the Government Code.

CHAPTER 1583

An act to amend Section 321.2 of the Health and Safety Code, and to amend Sections 14053 and 14132 of the Welfare and Institutions Code, relating to health.

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

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

SECTION 1. Section 321.2 of the Health and Safety Code is amended to read:

321.2. The governing body of each county or counties shall establish a community child health and disability prevention program for the purpose of providing early and periodic assessments of the health status of children in the county or counties by July 1, 1974. However, this shall be the responsibility of the department for all counties which contract with the state for health services. Contract counties, at the option of the board of supervisors, may provide services pursuant to this article in the same manner as other county programs, provided such option is exercised prior to the beginning of each fiscal year. Each such plan shall include, but is not limited to, the following requirements:

(a) Outreach and educational services.

(b) Agreements with public and private facilities and practitioners to carry out the programs.

(c) Health screening and evaluation services including, for all children eligible for Medi-Cal, a physical examination, immunizations appropriate for their age and health history, and laboratory procedures appropriate for their age and population group.

(d) Referral for diagnosis or treatment when needed, including, for all children eligible for Medi-Cal, referral for treatment by a provider participating in the Medi-Cal program of the conditions detected, and methods for assuring referral is carried out.

(e) Recordkeeping and program evaluations.

The health screening and evaluation part of each community child health and disability prevention program plan shall include, but is not limited to, the following for each child:

(a) A health and development history.

(b) An assessment of physical growth.

(c) An examination for obvious physical defects.

(d) Ear, nose, mouth, and throat inspection, including inspection of teeth and gums, and for all children three years of age and older who are eligible for Medi-Cal, referral to a dentist participating in the Medi-Cal program.

(e) Screening tests for vision, hearing, anemia, tuberculosis, diabetes, and urinary tract conditions.

(f) An assessment of nutritional status.

(g) An assessment of immunization status.

(h) Where appropriate, testing for sickle cell trait, lead poisoning, and other tests which may be necessary to the identification of children with potential disabilities requiring diagnosis and possibly treatment.

(i) For all children eligible for Medi-Cal, necessary assistance with scheduling appointments for services and with transportation.

(j) The State Department of Health Services shall report to the Legislature, by April 15, 1986, on all necessary steps to improve access to preventive dental care for children eligible for Medi-Cal, such as streamlining reimbursement procedures, increasing fees for specific preventive dental procedures, or increasing fees in specific geographic areas.

(k) Dentists receiving referrals of children eligible for Medi-Cal under this section shall employ procedures to advise the child's parent or parents of the need for and scheduling of annual appointments.

Standards for procedures to carry out health screening and evaluation services and to establish the age at which particular tests should be carried out shall be established by the director, with review and recommendation by the board. However, a governing body may include additional health screening and evaluation procedures in its program if approved by the director and the board.

Each community child health and disability prevention program shall, pursuant to standards set by the director, establish a record system which contains a health case history for each child so that costly and unnecessary repetition of screening, immunization and referral will not occur and appropriate health treatment will be facilitated as specified in Section 323.5.

SEC. 2. Section 14053 of the Welfare and Institutions Code is amended to read:

14053. The term "health care services" means the benefits set forth in Article 4 (commencing with Section 14131) of this chapter and in Section 14021. The term includes inpatient hospital services for any individual under 21 years of age in an institution for mental diseases. Any individual under 21 years of age receiving inpatient psychiatric hospital services immediately preceding the date on which he or she attains age 21 may continue to receive these services until he or she attains age 22. The term also includes early and periodic screening, diagnosis, and treatment for any individual under 21 years of age.

The term "health care services" does not include, except to the extent permitted by federal law, any of the following:

(a) Care or services for any individual who is an inmate of an institution (except as a patient in a medical institution).

(b) Care or services for any individual who has not attained 65 years of age and who is a patient in an institution for tuberculosis.

(c) Care or services for any individual who is 21 years of age or

over, except as provided in the first paragraph of this section, and has not attained 65 years of age and who is a patient in an institution for mental diseases.

(d) Inpatient services provided to individuals 21 to 64 years of age, inclusive, in an institution for mental diseases operating under a consolidated license with a general acute care hospital pursuant to Section 1250.8 of the Health and Safety Code, unless federal financial participation is available for such inpatient services.

SEC. 3. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry, physician, nurse practitioner services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered in an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond

the beneficiary's control. The department's utilization controls shall not require X-rays as a condition of reimbursement for fillings for children under 18 years of age. The department may, where available, use X-rays taken in the ordinary course of diagnosis to determine the necessity of, and appropriate reimbursement for, fillings. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, nurse practitioner services pursuant to Section 14115.6, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a

general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, other prophylaxis treatment for children 17 years of age and under, are covered.

(s) Paramedic services performed by a city, county, or special district, or pursuant to a contract with a city, county, or special district, and pursuant to a program established under Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2 of the Health and Safety Code by a paramedic certified pursuant to that article, and consisting of defibrillation and those services specified in subdivision (3) of Section 1482 of the article.

This subdivision shall be in effect only to the extent federal financial participation is available as set forth in Section 14106.6.

(t) In-home medical care services are covered when medically appropriate and subject to utilization controls, for beneficiaries who would otherwise require care for an extended period of time in an acute care hospital at a cost higher than in-home medical care services. The director shall have the authority under this section to contract with organizations qualified to provide in-home medical care services to such persons. Such services may be provided to patients placed in facilities such as skilled nursing or intermediate care facilities, or to persons in shared or congregate living arrangements, if a home setting is not medically appropriate or available to the beneficiary. As used in this section, "in-home medical care service" includes utility bills directly attributable to continuous, 24-hour operation of life-sustaining medical equipment, to the extent that federal financial participation is available.

(u) Home and community-based services approved by the United States Department of Health and Human Services may be covered to the extent that federal financial participation is available for such services under waivers granted in accordance with Section 1915 of the federal Social Security Act. The director may seek waivers for any or all home and community-based services approvable under Section 1915 of the federal Social Security Act. Coverage for such services shall be limited by the terms, conditions, and duration of the federal waivers.

The department shall submit a report, as provided in Section 28 of

the 1982 Budget Act, 30 days prior to providing these services as Medi-Cal benefits. The report shall be submitted to the Joint Legislative Budget Committee and the fiscal committees and shall address the cost effectiveness of services provided pursuant to this subdivision.

(v) Comprehensive perinatal services, as provided through an agreement with a health care provider designated in Section 14134.5 and meeting the standards developed by the department pursuant to Section 14134.5, subject to utilization controls.

The department shall seek any federal waivers necessary to implement the provisions of this subdivision. The provisions for which appropriate federal waivers cannot be obtained shall not be implemented. Provisions for which waivers are obtained or for which waivers are not required shall be implemented notwithstanding any inability to obtain federal waivers for the other provisions. No provision of this subdivision shall be implemented unless matching funds from Title XIX of the federal Social Security Act are available.

(w) Early and periodic screening, diagnosis, and treatment for any individual under 21 years of age is covered, consistent with the requirements of Title XIX of the federal Social Security Act.

(x) When a claim for treatment provided to a beneficiary includes both services which are authorized and reimbursable under this chapter, and services which are not reimbursable under this chapter, that portion of the claim for the treatment and services authorized and reimbursable under this chapter shall be payable.

SEC. 4. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry, physician, nurse practitioner services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered in an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. The department's utilization controls shall not require X-rays as a condition of reimbursement for fillings for children under 18 years of age. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, nurse practitioner services pursuant to Section 14115.6, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, other prophylaxis treatment for children 17 years of age and under, are covered.

(s) Paramedic services performed by a city, county, or special district, or pursuant to a contract with a city, county, or special district, and pursuant to a program established under Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2 of the Health and Safety Code by a paramedic certified pursuant to that article, and consisting of defibrillation and those services specified in subdivision (3) of Section 1482 of the article.

This subdivision shall be in effect only to the extent federal financial participation is available as set forth in Section 14106.6.

(t) In-home medical care services are covered when medically appropriate and subject to utilization controls, for beneficiaries who would otherwise require care for an extended period of time in an acute care hospital at a cost higher than in-home medical care services. The director shall have the authority under this section to contract with organizations qualified to provide in-home medical care services to such persons. These services may be provided to patients placed in facilities such as skilled nursing or intermediate care facilities, or to persons in shared or congregate living arrangements, if a home setting is not medically appropriate or

available to the beneficiary. As used in this section, "in-home medical care service" includes utility bills directly attributable to continuous, 24-hour operation of life-sustaining medical equipment, to the extent that federal financial participation is available.

As used in this subdivision, in-home medical care services, include, but are not limited to:

(1) Level of care and cost of care evaluations.

(2) Expenses, directly attributable to home care activities, for materials.

(3) Physician fees for home visits.

(4) Expenses directly attributable to home care activities for shelter and modification to shelter.

(5) Expenses directly attributable to additional costs of special diets, including tube feeding.

(6) Medically related personal services.

(7) Home nursing education.

(8) Emergency maintenance repair.

(9) Home health agency personnel benefits which permit coverage of care during periods when regular personnel are on vacation or using sick leave.

(10) All services needed to maintain antiseptic conditions at stoma or shunt sites on the body.

(11) Emergency and nonemergency medical transportation.

(12) Medical supplies.

(13) Medical equipment, including, but not limited to, scales, gurneys, and equipment racks suitable for paralyzed patients.

(14) Utility use directly attributable to the requirements of home care activities which are in addition to normal utility use.

(15) Special drugs and medications.

(16) Home health agency supervision of visiting staff which is medically necessary, but not included in the home health agency rate.

(17) Therapy services.

(18) Household appliances and household utensil costs directly attributable to home care activities.

(19) Modification of medical equipment for home use.

(20) Training and orientation for use of life support systems, including, but not limited to support of respiratory functions.

Beneficiaries receiving in-home medical care services are entitled to the full range of services within the Medi-Cal scope of benefits as defined by this section, subject to medical necessity and applicable utilization control. Services provided pursuant to this subdivision, which are not otherwise included in the Medi-Cal schedule of benefits, shall be available only to the extent that federal financial participation for these services is available in accordance with a home and community-based services waiver.

(u) Home and community-based services approved by the United States Department of Health and Human Services may be covered to the extent that federal financial participation is available for such

services under waivers granted in accordance with Section 1915 of the federal Social Security Act. The director may seek waivers for any or all home and community-based services approvable under Section 1915 of the federal Social Security Act. Coverage for such services shall be limited by the terms, conditions, and duration of the federal waivers.

The department shall submit a report, as provided in Section 28 of the 1982 Budget Act, 30 days prior to providing these services as Medi-Cal benefits. The report shall be submitted to the Joint Legislative Budget Committee and the fiscal committees and shall address the cost effectiveness of services provided pursuant to this subdivision.

(v) Comprehensive perinatal services, as provided through an agreement with a health care provider designated in Section 14134.5 and meeting the standards developed by the department pursuant to Section 14134.5, subject to utilization controls.

The department shall seek any federal waivers necessary to implement the provisions of this subdivision. The provisions for which appropriate federal waivers cannot be obtained shall not be implemented. Provisions for which waivers are obtained or for which waivers are not required shall be implemented notwithstanding any inability to obtain federal waivers for the other provisions. No provision of this subdivision shall be implemented unless matching funds from Title XIX of the federal Social Security Act are available.

(w) Early and periodic screening, diagnosis, and treatment for any individual under 21 years of age is covered, consistent with the requirements of Title XIX of the federal Social Security Act.

(x) When a claim for treatment provided to a beneficiary includes both services which are authorized and reimbursable under this chapter, and services which are not reimbursable under this chapter, that portion of the claim for the treatment and services authorized and reimbursable under this chapter shall be payable.

SEC. 5. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry, physician,

nurse practitioner services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered in an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. The department's utilization controls shall not require X-rays as a condition of reimbursement for fillings for children under 18 years of age. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly

established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, nurse practitioner services pursuant to Section 14115.6, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, other prophylaxis treatment for children 17 years of age and under, are covered.

(s) Paramedic services performed by a city, county, or special district, or pursuant to a contract with a city, county, or special district, and pursuant to a program established under Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2 of the Health and Safety Code by a paramedic certified pursuant to that article, and consisting of defibrillation and those services specified in subdivision (3) of Section 1482 of the article.

This subdivision shall be in effect only to the extent federal financial participation is available as set forth in Section 14106.6.

(t) In-home medical care services are covered when medically appropriate and subject to utilization controls, for beneficiaries who would otherwise require care for an extended period of time in an

acute care hospital at a cost higher than in-home medical care services. The director shall have the authority under this section to contract with organizations qualified to provide in-home medical care services to such persons. Such services may be provided to patients placed in facilities such as skilled nursing or intermediate care facilities, or to persons in shared or congregate living arrangements, if a home setting is not medically appropriate or available to the beneficiary. As used in this section, "in-home medical care service" includes utility bills directly attributable to continuous, 24-hour operation of life-sustaining medical equipment, to the extent that federal financial participation is available.

(u) Home and community-based services approved by the United States Department of Health and Human Services shall be covered only to the extent that federal financial participation is available for such services under waivers granted in accordance with Section 1915 of the federal Social Security Act. The director shall seek waivers for any or all home and community-based services which he or she determines are approvable under Section 1915 of the federal Social Security Act. Coverage for such services shall be limited by the terms, conditions, and duration of the federal waivers.

The department shall submit a report, as provided in Section 28 of the 1982 Budget Act, 30 days prior to providing these services as Medi-Cal benefits. The report shall be submitted to the Joint Legislative Budget Committee and the fiscal committees and shall address the cost effectiveness of services provided pursuant to this subdivision.

(v) Comprehensive perinatal services, as provided through an agreement with a health care provider designated in Section 14134.5 and meeting the standards developed by the department pursuant to Section 14134.5, subject to utilization controls.

The department shall seek any federal waivers necessary to implement the provisions of this subdivision. The provisions for which appropriate federal waivers cannot be obtained shall not be implemented. Provisions for which waivers are obtained or for which waivers are not required shall be implemented notwithstanding any inability to obtain federal waivers for the other provisions. No provision of this subdivision shall be implemented unless matching funds from Title XIX of the federal Social Security Act are available.

(w) Early and periodic screening, diagnosis, and treatment for any individual under 21 years of age is covered, consistent with the requirements of Title XIX of the federal Social Security Act.

(x) When a claim for treatment provided to a beneficiary includes both services which are authorized and reimbursable under this chapter, and services which are not reimbursable under this chapter, that portion of the claim for the treatment and services authorized and reimbursable under this chapter shall be payable.

SEC. 6. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this

chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry, physician, nurse practitioner services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered in an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered, subject to utilization controls. Nothing in this subdivision shall be construed to require prior authorization for anesthesiologist services provided as part of an outpatient medical procedure or for portable X-ray services in an intermediate care facility or a skilled nursing facility.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. The department's utilization controls shall not require X-rays as a condition of reimbursement for fillings for children under 18 years of age. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered

by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, nurse practitioner services pursuant to Section 14115.6, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, other prophylaxis treatment for children 17 years of age and under, are covered.

(s) Paramedic services performed by a city, county, or special district, or pursuant to a contract with a city, county, or special district, and pursuant to a program established under Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2 of the Health and Safety Code by a paramedic certified pursuant to that article, and consisting of defibrillation and those services specified in subdivision (3) of Section 1482 of the article.

This subdivision shall be in effect only to the extent federal financial participation is available as set forth in Section 14106.6.

(t) In-home medical care services are covered when medically appropriate and subject to utilization controls, for beneficiaries who would otherwise require care for an extended period of time in an acute care hospital at a cost higher than in-home medical care services. The director shall have the authority under this section to contract with organizations qualified to provide in-home medical care services to such persons. Such services may be provided to patients placed in facilities such as skilled nursing or intermediate care facilities, or to persons in shared or congregate living arrangements, if a home setting is not medically appropriate or available to the beneficiary. As used in this section, "in-home medical care service" includes utility bills directly attributable to continuous, 24-hour operation of life-sustaining medical equipment, to the extent that federal financial participation is available.

(u) Home and community-based services approved by the United States Department of Health and Human Services may be covered to the extent that federal financial participation is available for such services under waivers granted in accordance with Section 1915 of the federal Social Security Act. The director may seek waivers for any or all home and community-based services approvable under Section 1915 of the federal Social Security Act. Coverage for such services shall be limited by the terms, conditions, and duration of the federal waivers.

The department shall submit a report, as provided in Section 28 of the 1982 Budget Act, 30 days prior to providing these services as Medi-Cal benefits. The report shall be submitted to the Joint Legislative Budget Committee and the fiscal committees and shall address the cost effectiveness of services provided pursuant to this subdivision.

(v) Comprehensive perinatal services, as provided through an agreement with a health care provider designated in Section 14134.5 and meeting the standards developed by the department pursuant to Section 14134.5, subject to utilization controls.

The department shall seek any federal waivers necessary to

implement the provisions of this subdivision. The provisions for which appropriate federal waivers cannot be obtained shall not be implemented. Provisions for which waivers are obtained or for which waivers are not required shall be implemented notwithstanding any inability to obtain federal waivers for the other provisions. No provision of this subdivision shall be implemented unless matching funds from Title XIX of the federal Social Security Act are available.

(w) Early and periodic screening, diagnosis, and treatment for any individual under 21 years of age is covered, consistent with the requirements of Title XIX of the federal Social Security Act.

(x) When a claim for treatment provided to a beneficiary includes both services which are authorized and reimbursable under this chapter, and services which are not reimbursable under this chapter, that portion of the claim for the treatment and services authorized and reimbursable under this chapter shall be payable.

SEC. 7. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry, physician, nurse practitioner services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered in an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental

services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. The department's utilization controls shall not require X-rays as a condition of reimbursement for fillings for children under 18 years of age. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, nurse practitioner services pursuant to Section 14115.6, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate

care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, other prophylaxis treatment for children 17 years of age and under, are covered.

(s) Paramedic services performed by a city, county, or special district, or pursuant to a contract with a city, county, or special district, and pursuant to a program established under Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2 of the Health and Safety Code by a paramedic certified pursuant to that article, and consisting of defibrillation and those services specified in subdivision (3) of Section 1482 of the article.

This subdivision shall be in effect only to the extent federal financial participation is available as set forth in Section 14106.6.

(t) In-home medical care services are covered when medically appropriate and subject to utilization controls, for beneficiaries who would otherwise require care for an extended period of time in an acute care hospital at a cost higher than in-home medical care services. The director shall have the authority under this section to contract with organizations qualified to provide in-home medical care services to such persons. These services may be provided to patients placed in facilities such as skilled nursing or intermediate care facilities, or to persons in shared or congregate living arrangements, if a home setting is not medically appropriate or available to the beneficiary. As used in this section, "in-home medical care service" includes utility bills directly attributable to continuous, 24-hour operation of life-sustaining medical equipment, to the extent that federal financial participation is available.

As used in this subdivision, in-home medical care services, include, but are not limited to:

(1) Level of care and cost of care evaluations.

(2) Expenses, directly attributable to home care activities, for materials.

(3) Physician fees for home visits.

(4) Expenses directly attributable to home care activities for shelter and modification to shelter.

(5) Expenses directly attributable to additional costs of special diets, including tube feeding.

(6) Medically related personal services.

(7) Home nursing education.

(8) Emergency maintenance repair.

(9) Home health agency personnel benefits which permit coverage of care during periods when regular personnel are on vacation or using sick leave.

(10) All services needed to maintain antiseptic conditions at stoma or shunt sites on the body.

(11) Emergency and nonemergency medical transportation.

(12) Medical supplies.

(13) Medical equipment, including, but not limited to, scales, gurneys, and equipment racks suitable for paralyzed patients.

(14) Utility use directly attributable to the requirements of home care activities which are in addition to normal utility use.

(15) Special drugs and medications.

(16) Home health agency supervision of visiting staff which is medically necessary, but not included in the home health agency rate.

(17) Therapy services.

(18) Household appliances and household utensil costs directly attributable to home care activities.

(19) Modification of medical equipment for home use.

(20) Training and orientation for use of life support systems, including, but not limited to support of respiratory functions.

Beneficiaries receiving in-home medical care services are entitled to the full range of services within the Medi-Cal scope of benefits as defined by this section, subject to medical necessity and applicable utilization control. Services provided pursuant to this subdivision, which are not otherwise included in the Medi-Cal schedule of benefits, shall be available only to the extent that federal financial participation for these services is available in accordance with a home and community-based services waiver.

(u) Home and community-based services approved by the United States Department of Health and Human Services shall be covered only to the extent that federal financial participation is available for such services under waivers granted in accordance with Section 1915 of the federal Social Security Act. The director shall seek waivers for any or all home and community-based services which he or she determines are approvable under Section 1915 of the federal Social Security Act. Coverage for such services shall be limited by the terms, conditions, and duration of the federal waivers.

The department shall submit a report, as provided in Section 28 of the 1982 Budget Act, 30 days prior to providing these services as Medi-Cal benefits. The report shall be submitted to the Joint Legislative Budget Committee and the fiscal committees and shall

address the cost effectiveness of services provided pursuant to this subdivision.

(v) Comprehensive perinatal services, as provided through an agreement with a health care provider designated in Section 14134.5 and meeting the standards developed by the department pursuant to Section 14134.5, subject to utilization controls.

The department shall seek any federal waivers necessary to implement the provisions of this subdivision. The provisions for which appropriate federal waivers cannot be obtained shall not be implemented. Provisions for which waivers are obtained or for which waivers are not required shall be implemented notwithstanding any inability to obtain federal waivers for the other provisions. No provision of this subdivision shall be implemented unless matching funds from Title XIX of the federal Social Security Act are available.

(w) Early and periodic screening, diagnosis, and treatment for any individual under 21 years of age is covered, consistent with the requirements of Title XIX of the federal Social Security Act.

(x) When a claim for treatment provided to a beneficiary includes both services which are authorized and reimbursable under this chapter, and services which are not reimbursable under this chapter, that portion of the claim for the treatment and services authorized and reimbursable under this chapter shall be payable.

SEC. 8. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry, physician, nurse practitioner services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered in an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered, subject to utilization controls. Nothing in this subdivision shall be construed to require prior authorization for anesthesiologist services provided as part of an outpatient medical procedure or for portable X-ray services in an intermediate are facility or a skilled nursing facility.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. The department's utilization controls shall not require X-rays as a condition of reimbursement for fillings for children under 18 years of age. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the

beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and med cal supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, nurse practitioner services pursuant to Section 14115.6, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services ir a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, other prophylaxis treatment for children 17 years of age and under, are covered.

(s) Paramedic services performed by a city, county, or special district, or pursuant to a contract with a city, county, or special district, and pursuant to a program established under Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2 of the Health and Safety Code by a paramedic certified pursuant to that article, and consisting of defibrillation and those services specified in subdivision (3) of Section 1482 of the article.

This subdivision shall be in effect only to the extent federal financial participation is available as set forth in Section 14106.6.

(t) In-home medical care services are covered when medically appropriate and subject to utilization controls, for beneficiaries who would otherwise require care for an extended period of time in an acute care hospital at a cost higher than in-home medical care services. The director shall have the authority under this section to contract with organizations qualified to provide in-home medical care services to such persons. These services may be provided to patients placed in facilities such as skilled nursing or intermediate care facilities, or to persons in shared or congregate living

arrangements, if a home setting is not medically appropriate or available to the beneficiary. As used in this section, "in-home medical care service" includes utility bills directly attributable to continuous, 24-hour operation of life-sustaining medical equipment, to the extent that federal financial participation is available.

As used in this subdivision, in-home medical care services, include, but are not limited to:

(1) Level of care and cost of care evaluations.

(2) Expenses, directly attributable to home care activities, for materials.

(3) Physician fees for home visits.

(4) Expenses directly attributable to home care activities for shelter and modification to shelter.

(5) Expenses directly attributable to additional costs of special diets, including tube feeding.

(6) Medically related personal services.

(7) Home nursing education.

(8) Emergency maintenance repair.

(9) Home health agency personnel benefits which permit coverage of care during periods when regular personnel are on vacation or using sick leave.

(10) All services needed to maintain antiseptic conditions at stoma or shunt sites on the body.

(11) Emergency and nonemergency medical transportation.

(12) Medical supplies.

(13) Medical equipment, including, but not limited to, scales, gurneys, and equipment racks suitable for paralyzed patients.

(14) Utility use directly attributable to the requirements of home care activities which are in addition to normal utility use.

(15) Special drugs and medications.

(16) Home health agency supervision of visiting staff which is medically necessary, but not included in the home health agency rate.

(17) Therapy services.

(18) Household appliances and household utensil costs directly attributable to home care activities.

(19) Modification of medical equipment for home use.

(20) Training and orientation for use of life support systems, including, but not limited to support of respiratory functions.

Beneficiaries receiving in-home medical care services are entitled to the full range of services within the Medi-Cal scope of benefits as defined by this section, subject to medical necessity and applicable utilization control. Services provided pursuant to this subdivision, which are not otherwise included in the Medi-Cal schedule of benefits, shall be available only to the extent that federal financial participation for these services is available in accordance with a home and community-based services waiver.

(u) Home and community-based services approved by the United States Department of Health and Human Services may be covered

to the extent that federal financial participation is available for such services under waivers granted in accordance with Section 1915 of the federal Social Security Act. The director may seek waivers for any or all home and community-based services approvable under Section 1915 of the federal Social Security Act. Coverage for such services shall be limited by the terms, conditions, and duration of the federal waivers.

The department shall submit a report, as provided in Section 23 of the 1982 Budget Act, 30 days prior to providing these services as Medi-Cal benefits. The report shall be submitted to the Joint Legislative Budget Committee and the fiscal committees and shall address the cost effectiveness of services provided pursuant to this subdivision.

(v) Comprehensive perinatal services, as provided through an agreement with a health care provider designated in Section 14134.5 and meeting the standards developed by the department pursuant to Section 14134.5, subject to utilization controls.

The department shall seek any federal waivers necessary to implement the provisions of this subdivision. The provisions for which appropriate federal waivers cannot be obtained shall not be implemented. Provisions for which waivers are obtained or for which waivers are not required shall be implemented notwithstanding any inability to obtain federal waivers for the other provisions. No provision of this subdivision shall be implemented unless matching funds from Title XIX of the federal Social Security Act are available.

(w) Early and periodic screening, diagnosis, and treatment for any individual under 21 years of age is covered, consistent with the requirements of Title XIX of the federal Social Security Act.

(x) When a claim for treatment provided to a beneficiary includes both services which are authorized and reimbursable under this chapter, and services which are not reimbursable under this chapter, that portion of the claim for the treatment and services authorized and reimbursable under this chapter shall be payable.

SEC. 9. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry, physician, nurse practitioner services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered in an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered, subject to utilization controls. Nothing in this subdivision shall be construed to require prior authorization for anesthesiologist services provided as part of an outpatient medical procedure or for portable X-ray services in an intermediate care facility or a skilled nursing facility.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. The department's utilization controls shall not require X-rays as a condition of reimbursement for fillings for children under 18 years of age. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by

a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, nurse practitioner services pursuant to Section 14115.6, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, other prophylaxis treatment for children 17 years of age and under, are covered.

(s) Paramedic services performed by a city, county, or special district, or pursuant to a contract with a city, county, or special district, and pursuant to a program established under Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2 of the Health and Safety Code by a paramedic certified pursuant to that article, and consisting of defibrillation and those services specified in subdivision (3) of Section 1482 of the article.

This subdivision shall be in effect only to the extent federal financial participation is available as set forth in Section 14106.6.

(t) In-home medical care services are covered when medically appropriate and subject to utilization controls, for beneficiaries who would otherwise require care for an extended period of time in an acute care hospital at a cost higher than in-home medical care services. The director shall have the authority under this section to contract with organizations qualified to provide in-home medical care services to such persons. Such services may be provided to patients placed in facilities such as skilled nursing or intermediate care facilities, or to persons in shared or congregate living arrangements, if a home setting is not medically appropriate or available to the beneficiary. As used in this section, "in-home medical care service" includes utility bills directly attributable to continuous, 24-hour operation of life-sustaining medical equipment, to the extent that federal financial participation is available.

(u) Home and community-based services approved by the United States Department of Health and Human Services shall be covered only to the extent that federal financial participation is available for such services under waivers granted in accordance with Section 1915 of the federal Social Security Act. The director shall seek waivers for any or all home and community-based services which he or she determines are approvable under Section 1915 of the federal Social Security Act. Coverage for such services shall be limited by the terms, conditions, and duration of the federal waivers.

The department shall submit a report, as provided in Section 28 of the 1982 Budget Act, 30 days prior to providing these services as Medi-Cal benefits. The report shall be submitted to the Joint Legislative Budget Committee and the fiscal committees and shall address the cost effectiveness of services provided pursuant to this subdivision.

(v) Comprehensive perinatal services, as provided through an agreement with a health care provider designated in Section 14134.5 and meeting the standards developed by the department pursuant to Section 14134.5, subject to utilization controls.

The department shall seek any federal waivers necessary to implement the provisions of this subdivision. The provisions for which appropriate federal waivers cannot be obtained shall not be implemented. Provisions for which waivers are obtained or for which waivers are not required shall be implemented notwithstanding any inability to obtain federal waivers for the other provisions. No provision of this subdivision shall be implemented unless matching funds from Title XIX of the federal Social Security Act are available.

(w) Early and periodic screening, diagnosis, and treatment for any individual under 21 years of age is covered, consistent with the requirements of Title XIX of the federal Social Security Act.

(x) When a claim for treatment provided to a beneficiary includes both services which are authorized and reimbursable under this chapter, and services which are not reimbursable under this chapter,

that portion of the claim for the treatment and services authorized and reimbursable under this chapter shall be payable.

SEC. 10. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry, physician, nurse practitioner services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered in an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered, subject to utilization controls. Nothing in this subdivision shall be construed to require prior authorization for anesthesiologist services provided as part of an outpatient medical procedure or for portable X-ray services in an intermediate care facility or a skilled nursing facility.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. The department's utilization controls shall not require X-rays as a condition of reimbursement for fillings for

children under 18 years of age. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, nurse practitioner services pursuant to Section 14115.6, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited

amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, other prophylaxis treatment for children 17 years of age and under, are covered.

(s) Paramedic services performed by a city, county, or special district, or pursuant to a contract with a city, county, or special district, and pursuant to a program established under Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2 of the Health and Safety Code by a paramedic certified pursuant to that article, and consisting of defibrillation and those services specified in subdivision (3) of Section 1482 of the article.

This subdivision shall be in effect only to the extent federal financial participation is available as set forth in Section 14106.6.

(t) In-home medical care services are covered when medically appropriate and subject to utilization controls, for beneficiaries who would otherwise require care for an extended period of time in an acute care hospital at a cost higher than in-home medical care services. The director shall have the authority under this section to contract with organizations qualified to provide in-home medical care services to such persons. These services may be provided to patients placed in facilities such as skilled nursing or intermediate care facilities, or to persons in shared or congregate living arrangements, if a home setting is not medically appropriate or available to the beneficiary. As used in this section, "in-home medical care service" includes utility bills directly attributable to continuous, 24-hour operation of life-sustaining medical equipment, to the extent that federal financial participation is available.

As used in this subdivision, in-home medical care services, include, but are not limited to:

(1) Level of care and cost of care evaluations.

(2) Expenses, directly attributable to home care activities, for materials.

(3) Physician fees for home visits.

(4) Expenses directly attributable to home care activities for shelter and modification to shelter.

(5) Expenses directly attributable to additional costs of special diets, including tube feeding.

(6) Medically related personal services.

(7) Home nursing education.

(8) Emergency maintenance repair.

(9) Home health agency personnel benefits which permit coverage of care during periods when regular personnel are on

vacation or using sick leave.

(10) All services needed to maintain antiseptic conditions at stoma or shunt sites on the body.

(11) Emergency and nonemergency medical transportation.

(12) Medical supplies.

(13) Medical equipment, including, but not limited to, scales, gurneys, and equipment racks suitable for paralyzed patients.

(14) Utility use directly attributable to the requirements of home care activities which are in addition to normal utility use.

(15) Special drugs and medications.

(16) Home health agency supervision of visiting staff which is medically necessary, but not included in the home health agency rate.

(17) Therapy services.

(18) Household appliances and household utensil costs directly attributable to home care activities.

(19) Modification of medical equipment for home use.

(20) Training and orientation for use of life support systems, including, but not limited to support of respiratory functions.

Beneficiaries receiving in-home medical care services are entitled to the full range of services within the Medi-Cal scope of benefits as defined by this section, subject to medical necessity and applicable utilization control. Services provided pursuant to this subdivision, which are not otherwise included in the Medi-Cal schedule of benefits, shall be available only to the extent that federal financial participation for these services is available in accordance with a home and community-based services waiver.

(u) Home and community-based services approved by the United States Department of Health and Human Services shall be covered only to the extent that federal financial participation is available for such services under waivers granted in accordance with Section 1915 of the federal Social Security Act. The director shall seek waivers for any or all home and community-based services which he or she determines are approvable under Section 1915 of the federal Social Security Act. Coverage for such services shall be limited by the terms, conditions, and duration of the federal waivers.

The department shall submit a report, as provided in Section 28 of the 1982 Budget Act, 30 days prior to providing these services as Medi-Cal benefits. The report shall be submitted to the Joint Legislative Budget Committee and the fiscal committees and shall address the cost effectiveness of services provided pursuant to this subdivision.

(v) Comprehensive perinatal services, as provided through an agreement with a health care provider designated in Section 14134.5 and meeting the standards developed by the department pursuant to Section 14134.5, subject to utilization controls.

The department shall seek any federal waivers necessary to implement the provisions of this subdivision. The provisions for which appropriate federal waivers cannot be obtained shall not be

implemented. Provisions for which waivers are obtained or for which waivers are not required shall be implemented notwithstanding any inability to obtain federal waivers for the other provisions. No provision of this subdivision shall be implemented unless matching funds from Title XIX of the federal Social Security Act are available.

(w) Early and periodic screening, diagnosis, and treatment for any individual under 21 years of age is covered, consistent with the requirements of Title XIX of the federal Social Security Act.

(x) When a claim for treatment provided to a beneficiary includes both services which are authorized and reimbursable under this chapter, and services which are not reimbursable under this chapter, that portion of the claim for the treatment and services author zed and reimbursable under this chapter shall be payable.

SEC. 11. (a) Section 4 of this bill incorporates amendments to Section 14132 of the Welfare and Institutions Code proposed by both this bill and AB 1098. It shall only become operative if (1) both bills are enacted and become effective January 1, 1986, (2) each bill amends Section 14132 of the Welfare and Institutions Code, and (3) both AB 1172 and SB 1299 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 1098, in which case Sections 3 and 5 to 10, inclusive, of this bill shall not become operative.

(b) Section 5 of this bill incorporates amendments to Section 14132 of the Welfare and Institutions Code proposed by both this bill and AB 1172. It shall only become operative if (1) both bills are enacted and become effective January 1, 1986, (2) each bill amends Section 14132 of the Welfare and Institutions Code, (3) both AB 1098 and SB 1299 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 1172 in which case Sections 3, 4, and 6 to 10, inclusive, of this bill shall not become operative.

(c) Section 6 of this bill incorporates amendments to Section 14132 of the Welfare and Institutions Code proposed by both this bill and SB 1299. It shall only become operative if (1) both bills are enacted and become effective January 1, 1986, (2) each bill amends Section 14132 of the Welfare and Institutions Code, and (3) both AB 1172 and AB 1098 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after SB 1299, in which case Sections 3 to 5, inclusive, and 7 to 10, inclusive, of this bill shall not become operative.

(d) Section 7 of this bill incorporates amendments to Section 14132 of the Welfare and Institutions Code proposed by this bill, AB 1172, and AB 1098. It shall only become operative if (1) this bill, AB 1172, and AB 1098 are all enacted and become effective January 1, 1986, (2) each bill amends Section 14132 of the Welfare and Institutions Code, (3) SB 1299 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after both AB 1172 and AB 1098 in which case Sections 3 to 6, inclusive, and 8 to 10, inclusive, of this bill shall not become operative.

(e) Section 8 of this bill incorporates amendments to Section 14132 of the Welfare and Institutions Code proposed by this bill, and

AB 1098, and SB 1299. It shall only become operative if (1) this bill, AB 1098, and SB 1299 are all enacted and become effective January 1, 1986, (2) each bill amends Section 14132 of the Welfare and Institutions Code, and (3) AB 1172 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after both AB 1098 and SB 1299, in which case Sections 3 to 7, inclusive, 9 and 10 of this bill shall not become operative.

(f) Section 9 of this bill incorporates amendments to Section 14132 of the Welfare and Institutions Code proposed by this bill, AB 1172, and SB 1299. It shall only become operative if (1) this bill, AB 1172, and SB 1299 are all enacted and become effective January 1, 1986, (2) each bill amends Section 14132 of the Welfare and Institutions Code, (3) AB 1098 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after both AB 1172 and SB 1299 in which case Sections 3 to 8, inclusive, and 10 of this bill shall not become operative.

(g) Section 10 of this bill incorporates amendments to Section 14132 of the Welfare and Institutions Code proposed by this bill, AB 1172, AB 1098, and SB 1299. It shall only become operative if (1) all four bills are enacted and become effective January 1, 1986, (2) all four bills amend Section 14132 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 1172, AB 1098, and SB 1299, in which case Sections 3 to 9, inclusive, of this bill shall not become operative.

SEC. 12. 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 1584

An act to add and repeal Chapter 13 (commencing with Section 50840) and Chapter 14 (commencing with Section 50850) to Part 2 of Division 31 of the Health and Safety Code, and to amend and repeal Section 6217 of the Public Resources Code, relating to housing.

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

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

SECTION 1. Chapter 13 (commencing with Section 50840) is added to Part 2 of Division 31 of the Health and Safety Code, to read:

CHAPTER 13. HOUSING TRUST FUND

50840. The Legislature hereby finds and declares that current economic conditions, federal housing policies, and declining resources on the federal and state level adversely affect the ability of lower and very low income households to obtain adequate and affordable housing.

The Legislature further finds that increasing rents result in hardships for those least able to afford housing. Approximately 1,600,000 lower income renters, which comprise over 18 percent of all households, pay more than 25 percent of their income for housing and nearly 1,100,000 pay more than 35 percent of their income for housing.

The Legislature further finds that many elderly renters pay excessive amounts of their income for housing. Over 65 percent of all elderly renter households pay more than 25 percent of their income for housing and over one-quarter pay more than 50 percent of their income for housing.

The Legislature further finds that over 650,000 persons, which is more than 7 percent of all households, live in overcrowded conditions which are threatening to their health and safety.

The Legislature declares that it is in the public interest to establish a housing trust fund to assist lower and very low income households in meeting their housing needs.

50841. There is hereby created in the State Treasury the California Housing Trust Fund which shall only be available for the exclusive trust purposes specified in Section 50842 upon appropriation by the Legislature. Notwithstanding Section 13340 of the Government Code, all money in the fund is continuously appropriated for the purposes of Section 50842. There shall be paid into the fund the following:

(a) Any moneys appropriated and made available by the Legislature for the purposes of the fund.

(b) Any other moneys which may be made available to the fund for the purposes of the fund from any other source or sources.

All interest or other increment resulting from investment or deposit of moneys in the fund shall be deposited in the fund, notwithstanding Section 16305.7 of the Government Code. Except as otherwise provided by this chapter, or unless specifically appropriated by the Legislature to other funds established pursuant to this division, moneys in the fund shall not be subject to transfer to any other fund pursuant to Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, except the Surplus Money Investment Fund.

50842. (a) Revenues deposited in the California Housing Trust Fund may only be expended for housing programs or those portions of housing programs authorized by law which serve lower and very low income households, as defined in Sections 50079.5 and 50105, respectively.

Not less than 20 percent of the revenues deposited annually in the fund shall be expended in rural areas, as defined by Section 50101, and one-fourth of the funds committed to rural areas in fiscal years 1986–87 and 1987–88 shall be distributed to the Farm Labor Housing Rehabilitation Loan Account established by Section 50854.

50843. This chapter 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. Chapter 14 (commencing with Section 50850) is added to Part 2 of Division 31 of the Health and Safety Code, to read:

CHAPTER 14. FARM LABOR HOUSING REHABILITATION LOAN PROGRAM

50850. (a) The Legislature finds and declares that affordable housing for transient and resident farmworkers is a scarce and diminishing resource. Increasing numbers of these housing units are in deteriorating condition because they cannot be economically maintained and repaired.

(b) The Legislature finds and declares that it is to the economic benefit of the state and a public purpose to encourage the availability and preservation of decent, safe, and sanitary farmworker housing in order to add to the stock of low- and moderate-income housing in this state, to enhance the economic activities of all segments of the state's agricultural industry, and to rehabilitate existing substandard employee housing rather than destroy that housing.

50851. The Legislature finds that it is too speculative to determine the income levels of the agricultural workers residing in rehabilitated housing at any given time and that many agricultural workers earn sufficient income, when they are employed, to qualify as persons and families of moderate income. Therefore, the Legislature finds and declares that the farmworker housing assisted pursuant to this chapter is not a low-rent housing project, as defined by Section 1 of Article XXXIV of the California Constitution.

50852. For the purposes of this chapter:

(a) "Account" means the Farm Labor Housing Rehabilitation Loan Account created pursuant to Section 50854.

(b) "Agricultural worker" or "farmworker" has the same meaning as specified in subdivision (b) of Section 1140.4 of the Labor Code.

(c) "Farmworker housing" means housing within the meaning of the term labor camp, as defined by Section 17008.

50853. There is a Farm Labor Housing Rehabilitation Loan Program within the Division of Community Affairs in the department which shall be administered by the director. The director may make loans under the program to owners of farmworker housing. Those loans shall be utilized solely for the rehabilitation of that housing. Loans made by the director pursuant to this chapter shall be made in consultation with the local

government in the jurisdiction in which the housing to be rehabilitated is located.

50854. (a) The Farm Labor Housing Rehabilitation Loan Account is hereby established in the Farmworkers Housing Grant Fund created by Section 50517.5. All money in the account shall, upon appropriation by the Legislature, be utilized for the purposes of this chapter. All interest or other increment resulting from investment or deposit of money in the account shall be deposited in the account, notwithstanding Section 16305.7 of the Government Code. Moneys in the account shall not be subject to transfer to any other fund or account pursuant to Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, except the Surplus Money Investment Fund.

(b) There shall be paid into the account all of the following.

(1) Any moneys appropriated to the account by the Legislature.

(2) Any moneys which the department receives in repayment of loans made from the account, including any interest or penalty on those loans.

(3) Any other moneys which may be made available to the department for the purposes of this chapter from any other source.

(c) No more than 3 percent of the funds appropriated to the account may be utilized by the department for personnel or to contract for services necessary to administer this chapter.

50855. The director may make loans from the account to private owners or operators of farmworker housing in an amount not to exceed 50 percent of the amount necessary to rehabilitate that housing in order to bring the housing into compliance with the requirements of the Employee Housing Act, Part 1 (commencing with Section 17000) of Division 13, as determined by the enforcement agency. The rate of interest on loans made pursuant to this chapter shall not exceed 7 percent per annum. The director shall rank requests for loans and shall grant priority to those requests which ensure that the lowest feasible rents, as determined by the department, will be charged for farmworker housing during the period of the loan.

50856. (a) The recipient of the loan shall enter into those agreements required by the department to further the purposes of this chapter. The recipient of the loan shall agree that housing units rehabilitated with the loan shall be utilized, maintained, and operated pursuant to this chapter for at least the term of the loan. If at any time prior to the end of the term of the loan the housing units cease to be utilized, maintained, and operated pursuant to this chapter, the department may declare any remaining balance on the loan immediately due and payable.

(b) The department shall develop and utilize security instruments necessary to ensure that the owner of the farmworker housing complies with the terms and conditions of the program. In addition, the owner and the department shall enter into a contract or regulatory agreement, or both, which shall include, but need not

be limited to, all of the following:

(1) The location and number of housing units assisted under the program and the amounts of the rents charged.

(2) A requirement that the owner prepare an annual report to ensure that all relevant and applicable laws are complied with in the rehabilitation, use, operation, and maintenance of the units.

(3) A provision that permits the loan to be assumed and the covenants and conditions of the loan to be binding upon successors in interest of the owner of the units.

50857. The department shall adopt regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for the administration of this chapter. The regulations shall include, but need not be limited to, all of the following:

(a) A plan for distributing loans pursuant to this chapter based on all of the following factors:

(1) The availability of other public or private assistance to ensure lower rents or lower costs for housing assisted under the program.

(2) The degree of utilization of the housing.

(3) The seriousness of the condition of the housing as measured by the rehabilitation necessary to bring the housing into compliance with the Employee Housing Act, Part 1 (commencing with Section 1700) of Division 13, as determined by the enforcement agency.

(b) A provision for a loan term of five years with an option for an additional five years.

(c) Criteria for determining the interest rate at which loans shall be made, based on the rent to be paid by the residents, the period of time the housing will be available to farmworkers, and the number of units assisted.

(d) The terms, conditions, and interest rates on the loans, including, but not limited to, the rent to be paid by the residents, the period of time the housing will be available to farmworkers, and the number of units assisted.

50858. The farmworker housing assisted pursuant to this chapter shall only be available to, and occupied by, farmworkers. However, in the event of a natural disaster or other critical occurrence, as determined by the department, the housing may be utilized at the discretion of the owner for households without shelter for up to 30 days if there are no farmworkers who have submitted an application to reside in the housing.

50859. This chapter 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. 3. Section 6217 of the Public Resources Code is amended to read:

6217. With the exception of revenues derived from state school lands and from sources described in Sections 6217.6, 6301.5, 6301.6, 6855, and 8551 to 8558, inclusive, and Section 6406 (insofar as the proceeds are from property which has been distributed or escheated

to the state in connection with unclaimed estates of deceased persons), the commission shall deposit in the State Treasury all revenues, moneys, and remittances received by it under this division, and under Chapter 138 of the Statutes of 1964, First Extraordinary Session, and these sums shall be applied to the following obligations in the following order:

(a) To the General Fund the revenue necessary to provide in any fiscal year for the following:

(1) Payment of refunds, authorized by the commission and approved by the State Board of Control, out of appropriations made for that purpose by the Legislature.

(2) Payment of expenditures of the commission as provided in the annual Budget Act approved by the Legislature.

(3) Payments to cities and counties of the amounts specified in Section 6817 for the purposes specified in that section, and the revenues so deposited are appropriated for this purpose.

(4) Payments to cities and counties of the amounts agreed to pursuant to the provisions of Section 6875.

(b) To the California Water Fund each fiscal year the amount of twenty-five million dollars ($25,000,000).

(c) To the Central Valley Water Project Construction Fund each fiscal year the amount of five million dollars ($5,000,000).

(d) To the Resources Agency, the amount of five hundred thousand dollars ($500,000) for each of the fiscal years 1984–85, 1985–86, 1986–87, 1987–88, and 1988–89 for distribution for public and private higher education for use as up to two-thirds of the local matching share for projects under the National Sea Grant College and Program Act of 1966 (P.L. 89-688) approved, upon the recommendation of the advisory panel appointed pursuant to this section, by the Secretary of the Resources Agency or his or her designee. During the 1988–89 fiscal year, the Legislature shall consider recommendations from the Secretary of the Resources Agency and other interested parties on the benefits to the people of the State of California derived from this program and shall determine whether or not to continue similar appropriations for subsequent fiscal years.

There shall be an advisory panel to the Secretary of the Resources Agency consisting of 13 members, which shall do all of the following:

(1) Identify state needs which might be met through Sea Grant research projects, including, but not limited to, such fields as living marine resources, aquaculture, ocean engineering, marine minerals, public recreation, coastal physical processes and coastal and ocean resources planning and management, and marine data acquisition and dissemination, establish priorities for those needs, and transmit those needs and priorities to the Legislature not later than January 1 of each year and include them in all announcements of proposals for grants in the following fiscal year.

(2) Review all applications for funding under this section and make recommendations based upon the priorities it establishes.

(3) Periodically review progress on Sea Grant research projects subsequent to their approval and funding under this section.

(4) Make recommendations to the Secretary of the Resources Agency with respect to the implementation of this section.

The Secretary of the Resources Agency shall appoint the following members of the advisory panel, who shall serve at the pleasure of the secretary:

(A) A representative of the Department of Boating and Waterways.

(B) A representative of the Department of Conservation.

(C) A representative of the Department of Fish and Game.

(D) The executive director of the California Coastal Commission or his or her designee.

(E) A representative of the fish industry.

(F) A representative of the aquaculture industry.

(G) A representative of the ocean engineering industry.

(H) A representative of the University of California.

(I) A representative of the California State University.

(J) A representative of a private California institution of higher education which is participating in the National Sea Grant Program.

(K) A representative of the State Lands Commission.

The Senate Committee on Rules shall appoint one Member of the Senate to the panel, who shall serve at the pleasure of the Senate Committee on Rules.

The Speaker of the Assembly shall appoint one Member of the Assembly to the panel, who shall serve at the pleasure of the Speaker. This member shall not be of the same political party as the member appointed by the Senate Committee on Rules.

The Secretary of the Resources Agency shall designate one member of the panel to serve as its chairman. Panel members shall serve without compensation.

The Sea Grant research projects selected for state support under this section shall have a clearly defined benefit to the people of the State of California. The Legislature hereby finds and declares that the funding provided by this section is needed to stimulate the development and utilization of ocean and coastal resources by working constructively with private sector firms and individuals. Nothing in this section shall be construed to preclude the application for funding of any project which would be eligible for funding under the terms of the National Sea Grant College and Program Act of 1966.

(e) To the Capital Outlay Fund for Public Higher Education for the 1984–85 fiscal year the amount of one hundred two million one hundred sixty-eight thousand dollars ($102,168,000), and for each fiscal year thereafter, the amount necessary to provide for an unencumbered balance available for appropriation on July 1 of each fiscal year of one hundred twenty-five million dollars ($125,000,000).

(f) (1) To the State School Building Lease-Purchase Fund, for each of the fiscal years 1985–86, 1986–87, 1987–88, and 1988–89, the amount of one hundred fifty million dollars ($150,000,000).

(2) For the fiscal years 1984–85, 1985–86, 1986–87, 1987–88, and 1988–89, up to 5 percent of the amounts deposited in the State School Building Lease-Purchase Fund pursuant to this section or any other provision of law may be spent in accordance with Sections 17785 to 17795, inclusive, of the Education Code (Emergency School Classroom Law of 1979).

(g) To the Energy and Resources Fund each fiscal year, commencing with the 1985–86 fiscal year, the amount of sixty-five million dollars ($65,000,000).

(h) To the California Housing Trust Fund established pursuant to Section 50841 of the Health and Safety Code, commencing with the 1986–87 fiscal year, and each fiscal year thereafter, the amount of twenty million dollars ($20,000,000).

(i) To the Special Account for Capital Outlay, the balance of all revenues in excess of the amount distributed under subdivisions (a), (b), (c), (d), (e), (f), (g), and (h).

The commission may, with the approval of the State Board of Control, authorize the refund of moneys received or collected by it illegally or by mistake, inadvertence, or error. Claims authorized by the commission and approved by the State Board of Control shall be filed with the Controller and the Controller shall draw his or her warrant against the General Fund in payment of the refund from any appropriation made for that purpose.

All references in any law to Section 6816 shall be deemed to refer to this section.

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. If that date is not deleted or extended, then, on and after January 1, 1989, pursuant to Section 9611 of the Government Code, Section 6217 of the Public Resources Code, as amended by Section 3.5 of Chapter 1749 of the Statutes of 1984, shall have the same force and effect as if this temporary provision had not been enacted.

CHAPTER 1585

An act to add Section 6018.1 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor October 2, 1985. Filed with Secretary of State October 2, 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 to clarify ambiguities in existing law regarding drugs and medicines prescribed by veterinarians in the practice of veterinary medicine.

SEC. 2. Section 6018.1 is added to the Revenue and Taxation

Code, to read:

6018.1. A licensed veterinarian is a consumer of, and shall not be considered a retailer within the provisions of this part with respect to, drugs and medicines used or furnished by him or her in the performance of his or her professional services.

For the purposes of this section, "drugs and medicines" includes substances or preparations intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals and which is commonly recognized as a substance or preparation intended for this use. The term includes legend drugs, pills and capsules (other than vitamins), liquid medications, injected drugs, ointments, vaccines, intravenous fluids, and medicated soaps if those soaps are available only to veterinarians. The term does not include vitamins, shampoos, pet foods, prescription diet foods, artificial diets, flea powders, and flea sprays.

SEC. 3. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act, and the state shall not reimburse any local agency for any sales and use tax revenues lost by it under this act.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the California Constitution and shall go into immediate effect.

CHAPTER 1586

An act to add Sections 69641.5, 69656, and 69657 to the Education Code, relating to education.

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

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

SECTION 1. Section 69641.5 is added to the Education Code, to read:

69641.5. On or before April 1, 1986, the Board of Governors of the California Community Colleges shall consider adopting regulations which include all of the following objectives:

(a) That the Extended Opportunity Programs and Services provided by a community college shall include, but not be limited to, staff qualified to counsel all EOPS students regarding their individual educational objectives and the specific academic or vocational training program necessary to achieve those objectives, and that each EOPS student receives that counseling upon his or her initial enrollment in the community college, and at least every six months thereafter.

(b) That in assisting all EOPS students to identify their educational objectives, the Extended Opportunity Programs and

Services provided by a community college identifies those students who want to transfer to a four-year institution, and those who have the potential to transfer successfully, and that the EOPS director at each community college disseminates the names and addresses of these potential transfer students to admissions staff at public universities throughout the state at least once a year.

(c) That the EOPS director at each community college shall work with other community college staff to encourage all interested EOPS students to enroll in existing community college classes designed to develop skills necessary for successful study at a university, including, but not limited to, time management, research and study skills, classroom note-taking skills, and writing skills, and that these classes be developed if they are not already established.

SEC. 3. Section 69656 is added to the Education Code, to read:

69656. It is the intent of the Legislature that the California State University and the University of California provide fee waivers for admissions applications for all EOPS transfer students who provide waiver forms signed by a community college EOPS director.

SEC. 4. Section 69657 is added to the Education Code, to read:

69657. The California Postsecondary Education Commission shall assess statewide progress in the implementation of the recommendations of the task force established pursuant to subdivision (c) of Section 69655. The commission shall report its findings to the fiscal committees of the Legislature on or before May 15, 1986.

CHAPTER 1587

An act to amend Section 7137 of, and to add Sections 7028.1, 7028.2, 7058.5, 7065.01, and 7118.5 to, the Business and Professions Code, to add Section 49410.7 to the Education Code, to add Section 24223 to, and to add Chapter 2.5 (commencing with Section 24275) to Division 20 of, the Health and Safety Code, and to add Sections 6325.5, 6436, 6501.5, 6501.7, 6501.8, 6501.9, 6503.5, 6505.5, and 6508.5 to the Labor Code, relating to asbestos, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

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

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

SECTION 1. Section 7028.1 is added to the Business and Professions Code, to read:

7028.1. Any contractor required to be certified pursuant to Section 7058.5, who is not certified, shall:

(a) Upon a first offense, be subject to a civil prosecution with a mandatory civil penalty of not less than one thousand dollars

($1,000), and not more than three thousand dollars ($3,000), and may be subject to revocation of any contractor's license, for contracting without being properly certified.

(b) Upon a subsequent offense, be subject to revocation of any contractor's license, and to either or both of the following:

(1) A civil prosecution with a mandatory civil penalty of not less than three thousand dollars ($3,000), and not more than five thousand dollars ($5,000).

(2) A criminal prosecution punishable by a fine of not less than three thousand dollars ($3,000), and not more than five thousand dollars ($5,000), by imprisonment in the county jail not exceeding one year, or by both the fine and imprisonment.

SEC. 2. Section 7028.2 is added to the Business and Professions Code, to read:

7028.2. A civil or criminal complaint pursuant to this chapter may be brought by the Attorney General or by the District Attorney or prosecuting attorney of any city, in any county in the state with jurisdiction over the employer, by reason of the employer's domicile, the employer's place of business, or the location of the work; or having jurisdiction over the employee, by reason of the employee's domicile. The civil or criminal penalty assessed shall go to the office of the prosecutor bringing the complaint, but if the matter was referred to the prosecutor by the Contractors' State License Board, one-half of the penalty assessed shall go to the Contractors State License Board.

SEC. 3. Section 7058.5 is added to the Business and Professions Code, to read:

7058.5. (a) On and after January 1, 1987, no contractor shall engage in asbestos-related work, as defined in Section 6501.8 of the Labor Code, which involves 100 square feet or more of asbestos containing materials, unless the qualifier for the license passes an asbestos certification examination. Additional updated asbestos certification examinations may be required based on new health and safety information. The decision on whether to require an updated certification examination shall be made by the Contractors' State License Board, in consultation with the Division of Occupational Safety and Health in the Department of Industrial Relations and the State Department of Health Services.

"Asbestos" as used in this section, has the same meaning as defined in Section 6501.7 of the Labor Code.

(b) On or after January 1, 1987, and until December 31, 1989, the Contractors' State License Board shall develop, and deliver to all contractors at each renewal thereafter, and to all applicants with the application for a license, a booklet containing information relative to handling and disposal of asbestos, together with an open book examination concerning asbestos-related work. All contractors and applicants for a contractor's license shall complete and sign the open book examination and submit it to the Contractors' State License Board with the required renewal or application forms. On or after

January 1, 1990, only applicants for an original license shall complete and sign the open book examination and submit it to the Contractors' State License Board with the required application forms.

SEC. 4. Section 7065.01 is added to the Business and Professions Code, to read:

7065.01. On or before May 15, 1986, the Contractors' State License Board shall develop a written test for the certification of contractors engaged in asbestos-related work. The test shall be developed according to professionally accepted psychometric principles for licensing examinations, and with the assistance of subject matter experts provided by the Division of Occupational Safety and Health, the State Department of Health Services, and subject matter experts selected from the insurance industry, registered professional engineers, asbestos workers in California, and from licensed contractors engaged in asbestos-related work.

SEC. 5. Section 7118.5 is added to the Business and Professions Code, to read:

7118.5. Any contractor or employer who, knowingly or negligently, or by reason of a failure to inquire, enters into a contract with another person who is required to be, and is not, certified pursuant to Section 7058.5 to engage in asbestos-related work, as defined in Section 6501.8 of the Labor Code, shall:

(a) Upon a first offense, be subject to a civil prosecution with a mandatory civil penalty of not less than one thousand dollars ($1,000), and not more than three thousand dollars ($3,000), for contracting without being properly certified.

(b) Upon a subsequent offense, be subject to either or both of the following:

(1) A civil prosecution with a mandatory civil penalty of not less than three thousand dollars ($3,000), and not more than five thousand dollars ($5,000).

(2) A criminal prosecution punishable by a fine of not less than three thousand dollars ($3,000), and not more than five thousand dollars ($5,000), by imprisonment in the county jail not exceeding one year, or by both the fine and imprisonment.

SEC. 5.5. Section 7137 of the Business and Professions Code is amended to read:

7137. The amount of the fees prescribed by this chapter shall be fixed by the board according to the following schedule:

(a) The application fee for an original license in a single classification shall not exceed one hundred fifty dollars ($150).

The application fee for each additional classification applied for in connection with an original license shall not exceed fifty dollars ($50).

The application fee for each additional classification pursuant to Section 7059 shall not exceed fifty dollars ($50).

The application fee to replace a responsible managing officer or employee pursuant to Section 7068.2 shall not exceed fifty dollars ($50).

(b) The fee for rescheduling an examination for an applicant who has applied for an original license, additional classification, or a change of responsible managing officer or responsible managing employee, shall not exceed fifty dollars ($50).

(c) The initial license fee for an active or inactive license shall not exceed one hundred fifty dollars ($150).

(d) The renewal fee for an active license shall not exceed two hundred dollars ($200).

The renewal fee for an inactive license shall not exceed fifty dollars ($50).

(e) The delinquency fee is an amount equal to 50 percent of the renewal fee, but not more than twenty-five dollars ($25), subject to the provisions of Section 163.5.

(f) The registration fee for a home improvement salesperson shall not exceed fifty dollars ($50).

(g) The renewal fee for a home improvement salesperson registration shall not exceed seventy-five dollars ($75).

(h) The application fee for an asbestos certification exam shall not exceed fifty dollars ($50).

SEC. 6. Section 49410.7 is added to the Education Code, to read:

49410.7. (a) For purposes of funding pursuant to Section 39619.9, the factors determining the need for abatement of friable asbestos or potentially friable asbestos shall include, but not be limited to, visual inspection and air monitoring showing an airborne concentration of asbestos in excess of the standard .01 fibers/cc and 300 nanograms per cubic meter (ng/m^3) by Transmission Electron Microscopy (TEM) monitoring, as specified in subdivision (b), or the concurrently measured concentration of asbestos in the ambient air immediately adjacent to the building, whichever is higher.

(b) For purposes of air monitoring, the operating agency for each public school building in which friable asbestos-containing materials (other than pipe and block insulation) have been identified shall monitor airborne asbestos levels in each sampling area. Each sampling area in which asbestos-containing materials have been identified shall be monitored for at least eight hours during a period of normal building activity. Analysis of samples shall be by Transmission Electron Microscopy (TEM) methods, in accordance with the Environmental Protection Agency provisional method and update, to measure the number of observable asbestos fibers. The results of this monitoring shall be recorded in terms of the number of visible fibers greater than 5 microns in length per cubic centimeter of air (f/cc) in accord with standard definitions for asbestos monitoring established by the Occupational Safety and Health Administration. The results of the monitoring shall also be recorded in nanograms per cubic meter (ng/m^3).

"Sampling area," as used in this section, means any area, whether contiguous or not, within a building that contains friable material that is homogenous in texture and appearance.

(c) Any public primary or secondary school building in which

asbestos abatement work has been performed shall not be reoccupied until air monitoring has been conducted to show that the airborne concentration of asbestos does not exceed the air monitoring standard of subdivision (a). Not less than one month after the reoccupancy of the school building where asbestos abatement work has occurred, the building shall be remonitored to determine compliance with subdivision (b).

(d) "School building," as used in this section, means any of the following:

(1) Structures used for the instruction of public school children, including classrooms, laboratories, libraries, research facilities, and administrative facilities.

(2) School eating facilities and school kitchens.

(3) Gymnasiums or other facilities used for athletic or recreational activities or for courses in physical education.

(4) Dormitories or other living areas of residential schools.

(5) Maintenance, storage, or utility facilities essential to the operation of the facilities described in paragraphs (1) to (4).

(e) School districts and county officer of education may apply for reimbursement from the Asbestos Abatement Fund for the costs of air monitoring completed pursuant to this section.

SEC. 6.5. Section 24223 is added to the Health and Safety Code, to read:

24223. Not later than January 1, 1987, the Division of Occupational Safety and Health shall propose a regulation concerning asbestos-related work, as defined in Section 6501.8 of the Labor Code, to the Occupational Safety and Health Standards Board for review and adoption so as to protect most effectively the health and safety of employees. The regulation shall also include specific requirements for certification of all employees engaged in asbestos-related work, for certified supervisors with sufficient experience and authority to be responsible for asbestos-related work, and for a qualified person, who shall be responsible for scheduling any air sampling, laboratory calibration of air sampling equipment, evaluation of sampling results, and for conducting any respirator fit testing and evaluating the results of the tests.

SEC. 7. Chapter 2.5 (commencing with Section 24275) is added to Division 20 of the Health and Safety Code, to read:

CHAPTER 2.5. ASBESTOS SAFETY

24275. (a) The State Department of Health Services in conjunction with the study required pursuant to Assembly Bill 2070 of the 1985–86 Regular Session of the Legislature, if enacted, shall report to the Legislature by January 1, 1987, and periodically thereafter, on the most effective air monitoring standard for the airborne concentration of asbestos in any public school building that is both economically and technologically feasible. If the department believes that the air monitoring standard for asbestos in public school

buildings as specified in Section 49410.7 of the Education Code should be revised, it shall promulgate a regulation to that effect.

(b) The department shall provide the Office of Local Assistance with appropriate sampling methodology for use in taking air samples in public school buildings.

SEC. 7.4. Section 6325.5 is added to the Labor Code, to read:

6325.5. If the division has reasonable cause to believe that any workplace contains friable asbestos, and if there appears to be inadequate protection for employees at that workplace to the hazards from airborne asbestos fibers, the division may issue an order prohibiting use.

SEC. 8. Section 6436 is added to the Labor Code, to read:

6436. The civil or criminal complaint regarding a violation of Section 6505.5 may be brought by the Attorney General or by the district attorney or prosecuting attorney of any city, and may be brought in any county in the state with jurisdiction over the employer by reason of the employer's domicile, the employer's place of business, or the location of the work, or may be brought in any county having jurisdiction over the employee by reason of the employee's domicile. The civil or criminal penalty assessed shall go to the office of the prosecutor bringing the complaint, but if the case was referred to the prosecutor by the division, or some other governmental unit, one-half of the civil or criminal penalty assessed shall go to that governmental unit.

SEC. 9. Section 6501.5 is added to the Labor Code, to read:

6501.5. Effective January 1, 1987, any employer or contractor who engages in asbestos-related work, as defined in Section 6501.8, and which involves 100 square feet or more of asbestos-containing material, shall register with the division.

The division may grant registration based on a determination that the employer has demonstrated evidence that the conditions, practices, means, methods, operations, or processes used, or proposed to be used, will provide a safe and healthful place of employment. This section is not intended to supersede existing laws and regulations under Title 8, California Administrative Code, Section 5208, which shall remain in effect for those engaged in asbestos-related work of less than 100 square feet.

An application for registration shall contain such information and attachments, given under penalty of perjury, as the division may deem necessary to evaluate the safety and health of the proposed employment or place of employment. It shall include, but not be limited to, all of the following:

(a) Every employer shall meet each of the following criteria:

(1) If the employer is a contractor, the contractor shall be certified pursuant to Section 7058.5 of the Business and Professions Code.

(2) Provide health insurance coverage to cover the entire cost of medical examinations and monitoring required by law and be insured for workers' compensation, or provide a five hundred dollar

($500) trust account for each employee engaged in asbestos-related work. The health insurance coverage may be provided through a union, association, or employer.

(3) Train and certify all employees in accordance with all training required by law and Title 8 of the California Administrative Code.

(4) Be proficient and have the necessary equipment to safely do asbestos-related work.

(b) Provide written notice to the division of each separate job or phase of work, where the work process used is different or the work is performed at noncontiguous locations, noting all of the following:

(1) The address of the job.

(2) The exact physical location of the job at that address.

(3) The start and projected completion date.

(4) The name of a certified supervisor with sufficient experience and authority who shall be responsible for the asbestos-related work at that job.

(5) The name of a qualified person, who shall be responsible for scheduling any air sampling, laboratory calibration of air sampling equipment, evaluation of sampling results, and conducting a respirator fit testing and evaluating the results of those tests.

(6) The type of work to be performed, the work practices that will be utilized, and the potential for exposure.

Should any change be necessary, the employer or contractor shall so inform the division at or before the time of the change Any oral notification shall be confirmed in writing.

(c) Post the location where any asbestos-related work occurs so as to be readable at 20 feet stating, "Danger—Asbestos. Cancer and Lung Hazard. Keep Out."

(d) A copy of the registration shall be provided before the start of the job to the prime contractor or other employers on the site and shall be posted on the jobsite beside the Cal/OSHA poster.

(f) The division shall obtain the services of three industrial hygienists and one clerical employee to implement and to enforce the requirements of this section unless the director makes a finding that these services are not necessary or that the services are not obtainable due to a lack of qualified hygienists applying for available positions. Funding may, at the director's discretion, be appropriated from the Asbestos Abatement Fund.

SEC. 11. Section 6501.7 is added to the Labor Code, to read:

6501.7. "Asbestos" means fibrous forms of various hydrated minerals, including chrysotile (fibrous serpentine), crocidolite (fibrous riebecktite), amosite (fibrous cummingtonite—grunerite), fibrous tremolite, fibrous actinolite, and fibrous anthophyllite.

SEC. 12. Section 6501.8 is added to the Labor Code, to read:

6501.8. For purposes of this chapter, "asbestos-related work" means any activity which by disturbing asbestos-containing material may release asbestos fibers and which is not related to the manufacture of asbestos-containing products.

SEC. 12.5. Section 6501.9 is added to the Labor Code, to read:

6501.9. The owner, employer, or contractor who engages in asbestos-related work shall make a good faith effort to determine if asbestos is present before the work is begun. The contractor or employer shall first inquire of the owner if asbestos is present in any building or structure built prior to 1978.

SEC. 13. Section 6503.5 is added to the Labor Code, to read:

6503.5. A safety conference shall be held for all asbestos handling jobs prior to the start of actual work. It shall include representatives of the owner or contracting agency, the contractor, the employer, employees, and employee representatives. It shall include a discussion of the employer's safety program and such means, methods, devices, processes, practices, conditions, or operations as the employer intends to use in providing a safe place of employment.

SEC. 14. Section 6505.5 is added to the Labor Code, to read:

6505.5. (a) The division may, upon good cause shown, and after notice to the employer or contractor by the division and an opportunity to be heard, revoke or suspend any registration issued to the employer or contractor to do asbestos-related work until certain specified written conditions are met.

(b) Any owner of a commercial or industrial building or structure, any employer other than a licensed contractor, or any chief executive officer or any agent of any public agency who contracts for, or who begins, asbestos-related work in any building or structure built prior to 1978 without first making a good-faith effort to determine if asbestos-containing material is present, and thereby fails to comply with the applicable laws and regulations, shall be subject to the penalties specified in Chapter 4 (commencing with Section 6423).

SEC. 15. Section 6508.5 is added to the Labor Code, to read:

6508.5. No entity shall be exempt from registration. The State of California, a city, city and county, county, district, or public utility subject to the jurisdiction of the Public Utilities Commission, shall be required to apply for a registration through the designated chief executive officer of that body. No registration fees shall be required of any public agencies.

SEC. 16. The sum of four hundred twenty-two thousand dollars ($422,000) is hereby appropriated from the Contractors' License Fund to the Contractors' State License Board for the purpose of carrying out Section 7065.01 of the Business and Professions Code, as added by Section 4 of this act.

SEC. 17. (a) Except as provided in subdivision (b), 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.

(b) No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for costs which may

be incurred by a local agency or school district 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. 18. This act is an urgency statute necessary for the immediate preservation of 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:

Asbestos removal work is increasing in California, particularly with public schools which will be contracting to have asbestos removed during summer and Christmas vacation periods. To ensure that the Division of Occupational Safety and Health shall have sufficient time to review existing asbestos safety regulations, and in order for air monitoring standards for school asbestos abatement work to become effective as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 1588

An act to add Section 25351.2 to the Health and Safety Code, relating to hazardous substances, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 25351.2 is added to the Health and Safety Code, to read:

25351.2. (a) A city or county may initiate a removal or remedial action for a site listed pursuant to Section 25356 in accordance with this section. Except as provided in subdivision (d), the city or county shall, before commencing the removal or remedial action, take all of the following actions:

(1) The city or county shall notify the department of the planned removal or remedial action. Upon receiving this notification, the department shall make a reasonable effort to notify any person identified by the department as a potentially responsible party for the site. If a potentially responsible party is taking the removal or remedial action properly and in a timely fashion, or if a potentially responsible party will commence such an action within 60 days of this notification, the city or county may not initiate a removal or remedial action pursuant to this section.

(2) If a potentially responsible party for the site has not taken the action specified in paragraph (1), the city or county shall submit the estimated cost of the removal or remedial action to the department, which shall, within 30 days after receiving the estimate, approve or

disapprove the reasonableness of the cost estimate. If the department disagrees with the cost estimate, the city or county and the department shall, within 30 days, attempt to enter into an agreement concerning the cost estimate.

(3) The city or county shall demonstrate to the department that it has sufficient funds to carry out the approved removal or remedial action without taking into account any costs of the action which may be, or have been, paid by a potentially responsible party.

(b) If the director approves the request of the city or county to initiate a removal or remedial action and a final remedial action plan has been issued pursuant to Section 25356.1 for the hazardous substance release site, the city or county shall be deemed to be acting in place of the department for purposes of implementing the remedial action plan pursuant to this chapter.

(c) Upon reimbursing a city or county for the costs of a removal or remedial action, the department shall recover these costs pursuant to Section 25360.

(d) In order for a city or county to be reimbursed for the costs of a removal or remedial action incurred by the city or county from the Hazardous Substance Cleanup Fund, the city or county shall obtain the approval of the director before commencing the removal or remedial action. The director shall grant an approval only when all actions required by law prior to implementation of a remedial action plan have been taken.

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 encourage the expeditious cleanup of hazardous substance release sites, and thus better protect the public health and safety and the environment, it is necessary that this act take effect immediately.

CHAPTER 1589

An act to amend Section 9354 of, and to add Sections 9313.5 and 9355 to, the Welfare and Institutions Code, relating to elderly persons, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 9313.5 is added to the Welfare and Institutions Code, to read:

9313.5. The Legislature finds and declares that there is a great

disparity in the method by which the federal Older Americans Act (42 U.S.C. 3000, et seq.) and General Fund moneys are distributed to the 33 area agencies on aging in this state.

It is the intent of the Legislature to correct these inequities in funding for nutrition and social service programs. It is further the intent of the Legislature that correction of these inequities be accomplished with minimal disruption to existing program services. The department shall do all of the following:

(a) The department, in consultation with the commission, the Area Agency on Aging Advisory Council of California, the California Association of Area Agencies on Aging, and representatives of provider groups, shall review the existing intrastate funding formula, established pursuant to Section 9315, for the allocation of state and federal funds provided for programs under Title III of the federal Older Americans Act (42 U.S.C. 3021 et seq.). The department shall update the formula in accordance with federal regulations and shall submit a report thereon to the chairperson of the fiscal committee of each house of the Legislature and the Chairperson of the Joint Legislative Budget Committee, no later than December 1, 1986. Changes to the intrastate funding formula may only be made by the Legislature.

(b) The department and commission shall hold hearings and present alternative criteria for public input relative to the funding formula provided for under subdivision (a).

(c) The department, based upon analysis and testimony provided for pursuant to subdivision (b), and information provided by the public, shall develop an implementation plan with cost factors to achieve parity amongst the area agencies on aging in California .

(d) The department shall ensure that priority consideration shall be given to criteria which reflect the state's intent to target services to those in greatest economic or social need, including, but not limited to, the low-income, non-English speaking, minority, and frail elderly.

(e) The department shall report to the Legislature on the activities provided for in this section no later than December 1, 1986.

SEC. 2. Section 9354 of the Welfare and Institutions Code is amended to read:

9354. (a) All planning and service areas shall use no more than 10 percent of their annual total baseline allocation received pursuant to Title III B of the federal Older Americans Act (42 U.S.C. Sec. 3030(d)) for program development, advocacy, and coordination.

(b) Area agencies on aging shall not use state match funds for the purpose of program development, advocacy, and coordination.

(c) Program development activities are those activities which either establish a new service or improve, expand, or integrate existing services. These activities shall achieve a specific goal or objective and occur within a specific time frame.

(d) Of the allowable 10 percent available for program development, advocacy, and coordination activities, at least 20

percent shall be budgeted for advocacy activities by area agency on aging advisory councils.

(e) All other activities not specifically budgeted as advocacy, but undertaken on behalf of advisory council operations, shall be charged to area plan administration and shall be subject to any limitations on the amount of funds which are allocated for administration of the area plan.

(f) Any General Fund augmentation, made after the effective date of the Budget Act of 1985, of programs provided for under Title III of the federal Older Americans Act (42 U.S.C. Sec. 3021, et seq.) that results in an expansion of activities or services at the local level shall include up to a 5 percent administrative allocation. The distribution of the administrative funds shall be proportionate to the distribution of the augmentation funds received by each area agency on aging.

SEC. 3. Section 9355 is added to the Welfare and Institutions Code, to read:

9355. (a) Transfers between Title III-(C)(1) and III-(C)(2) of the federal Older Americans Act (42 U.S.C. 3001, et seq.) may be made to the extent permitted by federal law.

Transfers between state congregate and home-delivered meals program funds shall be unrestricted to allow for maximum flexibility in meeting local nutrition needs.

(b) Except as provided in subdivision (c), no more than 5 percent of the funds received under Title III-C of the Older Americans Act by either the department or by individual area agencies on aging, shall be transferred to provide services under other titles of the Older Americans Act or for other uses, until both of the following conditions, within each Planning and Service Area, have been satisfied:

(1) The priorities specified in subdivisions (b) and (c) of Section 4 of Chapter 616, of the Statutes of 1984, which address 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 five to seven have been fully implemented.

(2) The proportion of the elderly minority and ethnic served within both the congregate and home-delivered meal programs is at least equal to the proportion of elderly minority and ethnic persons who reside within each of the thirty-three designated planning and service areas. Definitions of ethnic and minority proportions shall be based upon the most current United States Bureau of the Census data.

(c) Transfers from Title III-C (2) to Title III-B are only permitted either when the conditions specified in subdivision (b) have been met or upon the approval of the director. The department may allow unrestricted transfers in the thirty-three Planning and Service Areas that do not meet the requirements specified in subdivision (b) upon a demonstration to the director's satisfaction that a good faith effort

has been made to meet these requirements and upon the submission of goals and methodologies to satisfy these requirements.

(d) This section shall supersede any contrary provisions of law, including language in the Budget Act of 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:

The existing formula for the distribution of Older Americans Act and General Fund dollars create significant underfunding for these crucial programs, and in order to ameliorate the underfunding as soon as possible, it is necessary that this act go into immediate effect.

CHAPTER 1590

An act to add Section 51206 of the Education Code, relating to education.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 51206 is added to the Education Code, to read:

51206. The Legislature hereby finds and declares that the physical fitness and motor development of children in the public elementary schools is of equal importance to that of other elements of the curriculum.

The Legislature further finds that, in order to improve the level of physical education in the elementary grades, the Superintendent of Public Instruction shall, through the regular budget process, employ an elementary physical education specialist to develop model curriculum standards in physical education for grades 1 to 8, inclusive, provide technical assistance to teachers, and assist school districts in the development of their physical education programs.

CHAPTER 1591

An act to add Section 25200.6 to, and to add Article 5.5 (commencing with Section 25159.10) to Chapter 6.5 of Division 20 of, the Health and Safety Code, and to amend Sections 13260, 13264, and 13360 of, and to add Sections 13051 and 13263.5 to, the Water Code, relating to waste.

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

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

SECTION 1. Article 5.5 (commencing with Section 25159.10) is added to Chapter 6.5 of Division 20 of the Health and Safety Code, to read:

Article 5.5. The Toxic Injection Well Control Act of 1985

25159.10. The Legislature hereby finds and declares all of the following:

(a) Specific state laws and regulations have been enacted to prevent leaks and hazardous waste discharges to land, such as those from underground storage tanks, surface impoundments, pits, ponds, or lagoons.

(b) The present federal law which regulates the discharge of hazardous waste to land in injection wells is inadequate to fully protect California's water supplies from contamination. As a result, underground injection of hazardous waste presents a serious short-term and long-term threat to the quality of waters in the state.

(c) State-of-the-art design and operation safeguards of injection wells without adequate groundwater monitoring, specific geological information, and other system safeguards cannot guarantee that migration of hazardous wastes into underground sources of drinking water will not occur.

(d) Monitoring requirements specified in federal law are not adequate to detect all leaks from injection wells and there are no requirements in federal law for monitoring the movement of wastes in the substrata to ensure that wastes have not escaped the injection zone or are not reacting with, or have not breached the confining strata.

(e) Injecting wastes into wells deep in the geological substrata is an unproven method for the containment of wastes because, among other things, hazardous wastes can react with geological substrata, rendering these containment barriers ineffective, pressure of the injected wastes can breach containment layers, and active or abandoned wells in the vicinity of waste injection can serve as a conduit for the wastes to migrate to drinking water supplies.

(f) Restoring contaminated groundwater to its original state after the fact and removal or cleanup of wastes once injected to these depths are formidable tasks which are not typically economically feasible.

(g) It is in the public interest to establish a continuing program for the purpose of preventing contamination from underground injection of waste. It is the intent of the Legislature to prohibit any injection of hazardous wastes into or above drinking water in the state, and to prohibit any injection of hazardous waste below

drinking water in the state which is not properly permitted and monitored so as to prevent hazardous wastes from migrating to drinking water or otherwise endangering the environment of the state.

(h) It is the intent of the Legislature that the Legislature will provide a process for the public and industry to appeal the actions or inactions of the department under this article. However, the specific process cannot be developed until the Legislature determines the general organization of the department with regard to administration of hazardous waste management programs.

25159.11. This article shall be known and may be cited as the Toxic Injection Well Control Act of 1985.

25159.12. For purposes of this article, the following definitions apply:

(a) "Annulus" means the space between the outside edge of the injection tube and the well casing.

(b) "State board" means the State Water Resources Control Board.

(c) "Compatibility" means that waste constituents do not react with each other, with the materials constituting the injection well, or with fluids or solid geologic media in the injection zone or confining zone in such a manner as to cause leaching, precipitation of solids, gas or pressure buildup, dissolution, or any other effect which will impair the effectiveness of the confining zone or the safe operation of the injection well.

(d) "Confining zone" means the geological formation, or part of a formation, which is intended to be a barrier to prevent the migration of waste constituents from the injection zone.

(e) "Constituent" means an element, chemical, compound, or mixture of compounds which is a component of a hazardous waste or leachate and which has the physical or chemical properties that cause the waste to be identified as hazardous waste by the department pursuant to this chapter.

(f) "Discharge" means to place, inject, dispose of, or store hazardous wastes into, or in, an injection well owned or operated by the person who is conducting the placing, disposal, or storage.

(g) "Drinking water" has the same meaning as "potential source of drinking water," as defined in subdivision (s) of Section 25208.2.

(h) "Facility" means the structures, appurtenances, and improvements on the land, and all contiguous land, which are associated with an injection well, which are used for treating, storing, or disposing of hazardous waste. A facility may consist of several waste management units, including, but not limited to, surface impoundments, landfills, underground or aboveground tanks, sumps, pits, ponds, and lagoons, which are associated with an injection well.

(i) "Groundwater" means water, including, but not limited to, drinking water, below the land surface in a zone of saturation.

(j) "Hazardous waste" means any hazardous waste specified as hazardous waste or extremely hazardous waste, as defined in this

chapter. Any waste mixture formed by mixing any waste or substance with a hazardous waste shall be considered hazardous waste for the purposes of this article.

(k) "Hazardous waste facilities permit" means a permit issued for an injection well pursuant to Sections 25200 and 25200.6.

(*l*) "Injection well" or "well" means any bored, drilled, or driven shaft, dug pit, or hole in the ground whose depth is greater than the circumference of the bored hole and any associated subsurface appurtenances, including, but not limited to, the casing. For the purposes of this article, injection well does not include either of the following:

(1) Wells exempted pursuant to Section 25159.24.

(2) Wells which are regulated by the Division of Oil and Gas in the Department of Conservation pursuant to Division 3 (commencing with Section 3000) of the Public Resources Code and Subpart F of Part 147 of Title 40 of the Code of Federal Regulations and are in compliance with that division and Subpart A (commencing with Section 146.1) of Subchapter D of Chapter 1 of Title 40 of the Code of Federal Regulations.

(m) "Injection zone" means that portion of the receiving formation which has received, is receiving, or is expected to receive, over the lifetime of the well, waste fluid from the injection well. "Injection zone" does not include that portion of the receiving formation which exceeds the horizontal and vertical extent specified pursuant to Section 25159.20.

(n) "Owner" means a person who owns a facility or part of a facility.

(o) "Perched water" means a localized body of groundwater that overlies, and is hydraulically separated from, an underlying body of groundwater.

(p) "pH" means a measure of a sample's acidity expressed as a negative logarithm of the hydrogen ion concentration.

(q) "Qualified person" means a person who has at least five years of full-time experience in hydrogeology and who is a registered geologist registered pursuant to Section 7850 of the Business and Professions Code, or a registered petroleum engineer registered pursuant to Section 6762 of the Business and Professions Code. "Full-time experience" in hydrogeology may include a combination of postgraduate studies in hydrogeology and work experience, with each year of postgraduate work counted as one year of full-time work experience, except that not more than three years of postgraduate studies may be counted as full-time experience.

(r) "Receiving formation" means the geologic strata which are hydraulically connected to the injection well.

(s) "Regional board" means the California regional water quality control board for the region in which the injection well is located.

(t) "Report" means the hydrogeological assessment report specified in Section 25179.7.

(u) "Safe Drinking Water Act" means Subchapter XII

(commencing with Section 300f) of Chapter 6A of Title 42 of the United States Code.

(v) "Strata" means a distinctive layer or series of layers of earth materials.

(w) "Waste management unit" means that portion of a facility used for the discharge of hazardous waste into or onto land, including all containment and monitoring equipment associated with that portion of the facility.

25159.13. (a) Each person who is using, or has used, an injection well on or after January 1, 1960, for the discharge of hazardous wastes shall file with the department, on a form provided by the department, a hazardous waste injection statement on or before January 1, 1987.

(b) Each hazardous waste injection statement shall include, but not be limited to, all of the following information:

(1) The name and addresses of the persons responsible for the injection well and the owner, if different.

(2) The address and location of the well, including the city and county in which the well is located.

(3) The name and 24-hour telephone number of the contact person in the event of an emergency involving the well, if the well is currently in operation.

(4) A description of the well, including the type of construction of the well, well drilling and geologic logs, and age of the well.

(5) A list of the specific hazardous waste constituents discharged into each well, the dates of these discharges, and approximate volumes of the discharges unless the person demonstrates, for a well which has not been in operation since January 1, 1980, that the information cannot be ascertained.

(6) A description of any method used to monitor the well for leaks and migration into surrounding soils or groundwater.

(c) Each statement shall be accompanied by a fee specified in the fee schedule adopted by the department pursuant to Section 25159.19, set in an amount sufficient to cover the reasonable costs of the department in administering this section.

(d) Any person who fails to submit the statement and the fee for each injection well to the department by January 1, 1987, is subject to a civil penalty in an amount of not less than one thousand dollars ($1,000) and not more than ten thousand dollars ($10,000) per day for each day the statement has not been received. Any person who submits false information to the department is subject to a civil penalty in an amount of not less than two thousand dollars ($2,000) and not more than twenty-five thousand dollars ($25,000) per day for each day the false information goes uncorrected.

(e) The department shall compile the hazardous waste injection statements by each city and county within which the well is located. These compilations shall be transmitted to the state board, the appropriate regional boards, cities, and counties on or before July 1, 1987.

(f) The department shall submit to the Legislature, on or before January 1, 1988, a report, based on the compilation of the hazardous waste injection statements made pursuant to subdivision (e) and any other information available to the department, which details the injection well sites which have resulted in contamination of land, air, or water and describing any proposed enforcement and remedial actions.

(g) This section applies only to injection wells into which hazardous waste is discharged.

25159.15. (a) Notwithstanding any other provision of law, on or after January 1, 1986, a person shall not discharge hazardous waste into an injection well which commences operation on or after January 1, 1986, and after January 1, 1988, a person shall not discharge hazardous waste into an injection well which commenced operation before January 1, 1986, unless all of the following conditions are met:

(1) Unless granted an exemption pursuant to subdivision (b), no point along the length of the injection well, as measured either horizontally or vertically, is located within one-half mile of drinking water.

(2) The person has received a hazardous waste facilities permit for the well issued pursuant to Section 25200.6.

(3) The injection well does not discharge hazardous waste into or above a formation which contains a source of drinking water within one-half mile of the well.

(b) A person may apply to the department to exempt an injection well from paragraph (1) of subdivision (a) if the person has received a hazardous waste facilities permit and the person has filed a report pursuant to Section 25159.18 with the department on or before January 1, 1987, which has been approved by the department, pursuant to Section 25159.18. If the person proposes to commence operation of an injection well on or after January 1, 1986, the person shall file the request for an exemption and the report at least one year before any proposed discharge or injection.

(c) The department shall either grant or deny an exemption from paragraph (1) of subdivision (a) on or before December 31, 1987, or within one year after receipt of the application for a proposed injection well. The department may grant an exemption from paragraph (1) of subdivision (a) only if the department makes all of the following written findings, and supports these findings by citing specific evidence presented in the report or provided to the department:

(1) The hydrogeology report prepared pursuant to Section 25159.18 is current, accurate, and complete.

(2) No hazardous waste constituents have migrated from that portion of the injection well located above the injection zone or have migrated from the injection zone.

(3) Practical alternative technologies, other than well injection, do not exist to reduce, treat, or dispose of the hazardous wastes which are to be discharged.

(4) Continuing or commencing the operation of the injection well does not pose a potential of hazardous waste constituents migrating from that portion of the injection well located above the injection zone or migrating from the injection zone and a monitoring program pursuant to subdivision (c) of Section 25159.17 has been installed, or for a proposed injection well, the monitoring program has been designed and will be installed before any discharge or injections into the well.

(d) An exemption granted pursuant to subdivision (c) 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 schedules adopted by the department pursuant to Section 25159.19. A regional board shall not renew the exemption unless it makes all of the findings in subdivision (c).

(e) The department shall revoke an exemption granted pursuant to subdivision (c) if the department determines that there is migration of hazardous wastes, or a threat of migration of hazardous wastes, from the well into any strata or the waters of the state outside the injection zone. The department shall then prohibit the discharge of any hazardous waste into the injection well, require appropriate removal and remedial actions by the person granted the exemption, and require the responsible parties to take appropriate removal and remedial actions.

(f) The state board, the regional boards, and the department shall establish procedures providing for the interagency transfer and review of applications for exemption received pursuant to subdivision (b).

(g) This section applies only to injection wells into which hazardous waste is discharged.

25159.16. (a) If the department or regional board determines that there is migration of hazardous waste constituents, or a threat of migration of hazardous waste constituents, from an injection well into any strata or waters of the state outside the injection zone, the department shall prohibit the discharge of any hazardous waste into the injection well until removal and remedial actions have been conducted to abate the migration or threat.

(b) The department shall determine, after the remedial and removal actions required pursuant to subdivision (a) are completed, whether the injection well should be continued to be used for the discharge of hazardous wastes. The department shall not approve the continued use of the injection well for the discharge of hazardous waste unless the department makes both of the following determinations:

(1) The removal or remedial action abated the contamination, or threat of contamination, from the migration or threat of migration.

(2) There is no potential, in continuing the operation of the injection well, for any future migration of hazardous waste constituents, from that portion of the injection well located above the injection zone, or from the injection zone.

The department shall make these determinations pursuant to a public hearing for which the department shall provide notice to all residents in the affected area, as determined by the department, and by mail to all persons listed on any mailing lists compiled by the regional board.

(c) If the department determines, pursuant to subdivision (b), that an injection well should not continue to be used for the discharge of hazardous wastes, the department shall require that all hazardous waste discharges be permanently terminated at the well and that the owner of the well take all actions necessary to prepare the injection well for closure pursuant to subdivision (d) and for postclosure maintenance which are required pursuant to the Federal Resource Conservation and Recovery Act of 1976 (42 U.S.C. Sec. 6901 et seq.), the regulations adopted by the United States Environmental Protection Agency pursuant to the Safe Drinking Water Act for proper closure, plugging, and monitoring of injection wells, and the regulations adopted by the state board and the department for closure of hazardous waste management units.

(d) Before any injection well used for the discharge of hazardous waste is closed, the department shall require the owner to certify that the well is in a state of static equilibrium, all defects or damages in the well casing are corrected prior to closure, that closure is sufficient to prevent the movement of fluids from the injection zone, and that all closure will commence within six months from the date the department orders closure. The injection well shall also be closed in accordance with the following requirements:

(1) Fluids and gases shall be confined to the stratum in which they occur by the use of cement grout or other suitable material. The amount, type, kind of material, and method of placement shall be approved by the department and the well shall be filled from bottom to top with the approved material.

(2) No well shall be sealed without the prior approval of the department. The person responsible for well closure shall submit a sealing plan to the department at least 90 days prior to the proposed date of sealing. The department may require that a representative of the department observe that sealing.

(e) The department shall consult with the regional board and the Division of Oil and Gas, where necessary, to fulfill the requirements of subdivision (d).

(f) This section applies only to injection wells into which hazardous waste is discharged.

25159.17. (a) The department shall make an inspection at least once each year of all facilities with injection wells into which hazardous waste is discharged. The owner shall tabulate the monitoring data recovered, pursuant to subdivision (c), monthly. The department shall review the data specified in paragraphs (1), (2), and (3), of subdivision (c) monthly and the data specified in paragraph (4) of subdivision (c) quarterly to ensure that all injection wells into which hazardous waste is discharged comply with this

chapter and that any equipment or programs required pursuant to this article are operating properly.

(b) The department shall require complete mechanical integrity testing of the well bore at least once a year and shall require pressure tests at least once every six months. The testing program shall be designed to detect defects, damage, and corrosion in the well, well casings, injection tube, packer, cement, and the screened or perforated portion of the well.

(c) The operator of an injection well into which hazardous waste is discharged shall conduct monitoring of the surface equipment, the well, and the movement of injected wastes, in the following manner:

(1) Injection fluids shall be sampled and analyzed at least monthly to yield representative data of their characteristics at all injection wells located at onsite facilities. If the injection well is located at an offsite facility, the fluids shall be sampled and analyzed every time the composition of the hazardous waste discharged into the injection well is different than the waste discharged immediately prior to the new discharge.

(2) Pressure gauges shall be installed and maintained in proper operating condition at all times on the injection tubing and annulus.

(3) Continuous recording devices shall be installed and maintained in proper operating condition at all times to record injection temperatures and pressures, injection flow rates, injection volumes, and annulus pressure.

(4) The monistoring system, including all monitoring wells, shall be constructed and operated in accordance with the standards specified in subdivision (p) of Section 25159.18. The design of the monitoring system and location and number of monitoring wells shall be approved by the department. Monitoring wells shall be sufficient in number and location for compliance with the monitoring requirements specified in subdivision (p) of Section 25159.18, the federal regulations adopted pursuant to the Safe Drinking Water Act, and for determining all of the following:

(A) The direction and rate of regional groundwater movement.

(B) Any upward migration of hazardous wastes and changes in water quality in the water bearing formation immediately above the injection zone.

(C) Any changes in water quality of drinking water within at least one-half mile of the well.

(D) The direction, rate, hydraulic effects, alteration, and characteristics of wastes injected into the injection zone, and any changes of pressure within or above the injection zone.

(d) The operator of an injection well shall equip the surface facilities of an injection well into which hazardous waste is discharged with shutoff devices, alarms, and fencing.

(e) The department shall require all abandoned water wells within three miles of a facility to be closed in accordance with standards at least as stringent as those set forth in the Department of Water Resources Bulletin No. 74-81.

(f) The department may require any subsurface structure or hole which is contaminated, may become contaminated, provides a potential conduit for contamination, or penetrates a formation containing drinking water to be closed in accordance with standards at least as stringent as those set forth in the Department of Water Resources Bulletin No. 74-81. If the subsurface structure or hole is an oil or gas well, the well shall be closed pursuant to the regulations adopted by the Division of Oil and Gas. If the subsurface structure is an injection well into which hazardous waste is discharged, the injection well shall be closed in accordance with the procedures specified in subdivision (d) of Section 25159.16.

(g) The regional board shall revise any existing waste discharge requirements, issued for any injection well into which hazardous waste is discharged, pursuant to Section 13263 of the Water Code, based upon a review of the report, and shall include conditions in the waste discharge requirements to ensure that the waters of the state are not polluted or threatened with pollution.

(h) This section applies only to injection wells into which hazardous waste is discharged.

25159.18. Any person who applies to the department for a hazardous waste facilities permit, or for the renewal or revision of a hazardous waste facilities permit, for the discharge of hazardous wastes into an injection well, including any proposed injection well, shall submit a hydrogeological assessment report to the department and to the appropriate regional board six months before applying for a hazardous waste facilities permit. A qualified person shall be responsible for the preparation of the report and shall certify its completeness and accuracy. The department shall not approve the report unless the department finds that the report is current, accurate, and complete, and that no hazardous waste constituents have migrated from the portion of the injection well located above the injection zone or have migrated from the injection zone. The report shall be accompanied by the fee established pursuant to Section 25159.19. The report shall contain, for each injection well, including any proposed injection well, any information required by the department, and all of the following information:

(a) A description of the injection well, including all of the following:

(1) Physical characteristics.

(2) A log of construction activities, including dates and methods used.

(3) A description of materials used in the injection well, including tubing, casing, packers, seals and grout.

(4) Design specifications and a drawing of the well as completed.

(5) An analysis of the chemical and physical compatability of the materials used with the wastes injected.

(6) Annulus fluid composition, level, and pressure at the time of well completion through the present time.

(b) A description of both of the following:

(1) The volume, temperature, pH, and radiological characteristics, and composition of hazardous waste constituents placed in the well, based on a statistically significant representative chemical analysis of each specific hazardous waste type, so that any variations in hazardous waste constituents over time are documented.

(2) The pressure and rate at which fluid is injected into the well.

(c) A map showing the distances, within the facility, to the nearest surface water bodies and springs, and the distances, within three miles from the facility's perimeter, to the nearest surface water bodies and springs

(d) Tabular data from each surface water body and spring shown on the map specified in subdivision (c), within one mile from the facility's perimeter, which indicate its flow and a representative water analysis. The report shall include an evaluation and characterization of seasonal changes and, if substantive changes result from season to season, the tabular data shall reflect these seasonal changes.

(e) A map showing the location of all existing and abandoned wells, dry holes, mines, and quarries within the facility and within three miles of the facility's perimeter. The report shall include, for each well shown on the map a description of the present use of the well, a representative water analysis from any existing wells, any known physical characteristics, and a determination as to whether the well, if abandoned, has been closed in accordance with standards at least as stringent as those set forth in the Department of Water Resources Bulletin No. 74-81, or, if the well is an oil or gas well, in accordance with the regulations of the Division of Oil and Gas. The report shall also include, when possible, the water well driller's report or well log.

(f) A map showing the structural geology and stratigraphy within three miles of the facility's perimeter that can influence the direction of the groundwater flow or the movement of the discharged wastes. The report shall include a description of folds, domes, basins, faults, seismic activity, fractures and joint patterns and a geologic cross section and general description of the subsurface rock units, including stratigraphic position, lithology, thickness, and areal distribution.

(g) An analysis for all of the following:

(1) The vertical and lateral extent of any water-bearing strata which could be affected by leakage from the injection well.

(2) The vertical and lateral extent of any strata through which the well is drilled.

(3) The vertical and lateral limits of the confining beds above, below, and adjacent to, the injection well.

(h) The analysis specified in subdivision (g) shall include all of the following:

(1) A map and cross section of all hydrogeologic units.

(2) Maps showing contours of equal elevation of the water surface

for perched water, unconfined water, and confined groundwater required to be analyzed by this subdivision.

(3) An estimate of the flow, and direction of, all water-bearing formations shown on both the maps and the subsurface geologic cross sections.

(4) An estimate of the transmissivity, permeability, porosity, and storage coefficient for each perched zone of water and water-bearing formations identified on the maps specified in paragraph (1).

(5) A determination of the water quality of each zone of the water-bearing formations and perched water which is identified on the maps specified in paragraph (1) which is under, or above and adjacent to, the well. This determination shall be conducted by taking samples either upgradient of the injection well or from another location which has not been affected by leakage from the injection well.

(i) A determination as to whether the groundwater is contiguous with regional bodies of groundwater and the depth measured from the injection zone and well casing to the groundwater, including the depth measured to perched water and water-bearing strata identified on the maps specified in subdivision (h).

(j) All of the following information for the receiving formation:

(1) A description of the chemical and physical properties of the receiving formation, including its lithology, thickness, composition, structure, porosity, storage capacity, permeability, compressibility, density, subsurface stress, vertical and lateral continuity and extent, fluid temperature, pressure, composition, and the measurement of the minimum pressure which would fracture the receiving formation.

(2) The effect of the injection pressure on the receiving formation.

(3) The geologic stability and long-term integrity of the receiving formation.

(4) An assessment of compatibility of waste, formation fluids, and formation lithology. This shall include a description of short range and long range changes anticipated in the physical and chemical state of the receiving formation in its fluids through chemical reaction and interaction with injection fluids.

(k) All of the following information for the confining zone:

(1) A description of its chemical and physical properties, including its age, composition, thickness, vertical and lateral continuity, unconformities, permeability, transmissivity, compressibility, porosity, density, and subsurface stress.

(2) The minimum amount of pressure which would fracture the confining zone, calculated specifically for the particular confining zone, a description of the number and types of existing fractures, faults, and cavities, and an analysis as to whether fractures were created or enlarged by past injection of wastes.

(3) The geologic stability and long-term integrity of the confining zone.

(4) Anticipated short range and long range changes in the physical state of the confining zone through chemical reaction and interaction with injection fluids.

(5) An estimate of the rate of migration of the hazardous waste constituents through the confining zone.

(*l*) A geologic cross section and description of the composition of each stratum through which the injection well is drilled. This description shall include a physical, chemical, and hydrogeolog cal characterization of both the consolidated and unconsolidated rock material, including lithology, mineralogy, texture, bedding, thickness, and permeability. It shall also include an analysis for pollutants, including those constituents discharged into the injection well. The report shall arrange all monitoring data in a tabular form so that the dates, the constituents, and the concentrations are readily discernible.

(m) A description of surface facilities, including, but not limited to, pressure gauges, automatic shutoff devices, alarms, fencing, specifications for valves and pipe fittings, and operator training and requirements.

(n) A description of contingency plans for well failures and shutdowns to prevent migration of contaminants from the well.

(o) A description of the monitoring being conducted to detect migration of hazardous waste constituents, including the number and positioning of the monitoring wells, the monitoring wells' distances from the injection well, the monitoring wells' design data, the monitoring wells' installation, the monitoring development procedures, the sampling and analytical methodologies, the sampling frequency, and the chemical constituents analyzed. The design data of the monitoring wells shall include the monitoring wells' depth, the monitoring wells' diameters, the monitoring wells' casing materials, the perforated intervals within the well, the size of the perforations, the gradation of the filter pack, and the extent of the wells' annular seals.

(p) Documentation demonstrating that the monitoring system and methods used at the facility can detect any seepage, including any leaks, cracks, or malfunctions in the well or a breach of the confining zone, before the hazardous waste constituents migrate from the well above the injection zone or from the confining zone. This documentation shall include, but is not limited to, substantiation of all of the following:

(1) The monitoring system is effective enough, and includes a sufficient number of monitoring wells in the major water bearing zones, which are located close enough to the injection well casing and to the injection zone, to verify that no lateral and vertical migration of any constituents discharged into the well is occurring outside of the injection zone.

(2) Monitoring wells are not located within the influence of any adjacent pumping wells which might impair their effectiveness.

(3) Monitoring wells are only screened in the aquifer to be

monitored and are monitored for both pressure and water quality.

(4) The chosen casing material does not adversely react with the potential contaminants of major concern at the facility.

(5) The casing diameter allows an adequate amount of water to be removed during sampling and allows full development of the monitor well.

(6) Monitoring wells are constructed so as not to provide potential conduits for migration of pollution, and the wells' construction features, including annular seals, prevent pollutants from migrating up or down the monitoring well.

(7) The methods of water sample collection require that the samples are transported and handled in accordance with the regulations adopted by the United States Geological Survey (pursuant to Chapter 2 (commencing with Section 31) of Title 43 of the United States Code) concerning the guidelines for collection and analysis of groundwater samples for selected unstable constituents. For all monitoring wells, except those extending into the injection zone, the sample shall be collected after at least five well volumes have been removed from the well.

(8) The hazardous waste constituents selected for analysis are specific to the facility, taking into account the chemical composition of hazardous wastes previously discharged into the injection well. The monitoring data shall be arranged in tabular form so that the date, the constituents, and the concentrations are readily discernible.

(9) The frequency of monitoring is sufficient to give timely warning of migration of hazardous waste constituents so that remedial action can be taken prior to any adverse changes in the quality of the groundwater.

(10) A written statement from the qualified person preparing the report indicating whether any constituents have migrated into the surface water bodies or any strata outside the injection zone, including water-bearing strata.

(11) A written statement from the qualified person preparing the report indicating whether any migration of hazardous waste constituents into surface water bodies or any strata outside the injection zone, including water-bearing strata is likely or not likely to occur within five years, and any evidence supporting that statement.

(q) This section applies only to injection wells into which hazardous waste is discharged.

25159.19. (a) On or before July 1, 1986, the department shall, by emergency regulation, adopt a fee schedule which assesses a fee upon any person discharging any hazardous wastes into an injection well. The department shall include in this fee schedule the fees charged for filing a hazardous waste injection statement specified in Section 25159.13, the report specified in Section 25159.18, and applications for, and renewals of, the exemptions specified in Section 25159.15. The department shall also include provisions in the fee schedule for assessing a penalty pursuant to subdivision (c). These

fees shall be based on the reasonable anticipated costs which will be incurred by the department to implement and administer this article. The department may also request an appropriation to be used in combination with these fees to perform the monitoring, inspections, review of reports, or any other implementation and administrative actions required by this article.

(b) The emergency regulations which set the fee schedule shall be adopted by the department in accordance with 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 that chapter, including Section 11349 6 of the Government Code, the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as 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, any emergency regulations adopted by the department pursuant to this section shall be filed with, but not be repealed by, the Office of Administrative Law and shall remain in effect until revised by the department.

(c) The department shall send a notice to each person subject to the fee specified in subdivision (a). If a person fails to pay the fee within 60 days after receipt of this notice, the department shall require the person to pay an additional penalty fee. The department shall set the penalty fee at not more than 100 percent of the assessed fee, but in an amount sufficient to deter future noncompliance, as based upon that person's past history of compliance and ability to pay, and upon additional expenses incurred by this noncompliance.

(d) The department shall collect and deposit the fees and penalties collected pursuant to this section in the Hazardous Waste Injection Well Account, which is hereby created in the General Fund. The money within the Hazardous Waste Injection Well Account is available, upon appropriation by the Legislature, to the department for purposes of administering this article.

(e) This section applies only to injection wells into which hazardous waste is discharged.

25159.20. (a) The department shall specify, for purposes of paragraph (4) of Section 25200.6, the horizontal and vertical extent of any injection zone for an injection well. The department shall cite specific information presented in the report prepared pursuant to Section 25159.18 as the basis for specifying the extent of the injection zone and shall make a finding as to whether the injection wells' hydrogeological and operating conditions ensure that there is no potential for any migration of any hazardous waste constituents to any strata or waters of the state outside the injection zone.

(b) This section applies only to injection wells into which hazardous waste is discharged.

25159.21. (a) The state board, a regional board, or the department may enter and inspect a facility for determining

compliance with this article, including, for this purpose, inspecting, at a reasonable time, records, files, papers, processes, and controls.

(b) Nothing in this article shall prevent the department from enforcing existing permit conditions for the land disposal of hazardous wastes that are more stringent than the restrictions of this article or prohibit the department, the state board, or the regional boards from imposing more stringent restrictions on the discharge of hazardous wastes at any particular hazardous waste disposal facility.

25159.22. This article shall not be construed to limit or abridge the powers and duties granted to the department pursuant to this chapter or pursuant to Chapter 6.8 (commencing with Section 25300) or to the state board or any regional board pursuant to Division 7 (commencing with Section 13000) of the Water Code, to the Division of Oil and Gas pursuant to Division 3 (commencing with Section 3000) of the Public Resources Code, or the authority of any city, county, or district to act pursuant to the local agency's ordinances or regulations.

25159.23. The State Oil and Gas Supervisor shall promptly report to the department and the state board any injection well regulated by the Division of Oil and Gas pursuant to Subpart F of Part 147 of Title 40 of the Code of Federal Regulations that is not in compliance with these regulations because fluids not authorized by these regulations are discharged into the well

25159.24. (a) Any injection well used to inject contaminated groundwater that has been treated and is being reinjected into the same formation from which it was drawn for the purpose of improving the quality of the groundwater in the formation is exempt from this article if this method is part of a remedial program initiated in response to an order, requirement, or other action of a federal or state agency.

(b) Any injection well used for the reinjection of geothermal resources, as defined in Section 6903 of the Public Resources Code, is exempt from this article if the well is in compliance with Chapter 4 (commencing with Section 3700) of Division 3 of the Public Resources Code.

25159.25. Any action taken by the department pursuant to this article shall comply with and incorporate any waste discharge requirements issued by the state board or a regional board, and the action shall be consistent with all applicable water quality control plans adopted pursuant to Section 13170 of the Water Code and Article 3 (commencing with Section 13240) of Chapter 4 of Division 7 of the Water Code and with the state policies for water quality control adopted pursuant to Article 3 (commencing with Section 13140) of Chapter 3 of Division 7 of the Water Code, and any amendments made to these plans, policies, or requirements. The department may also include any more stringent requirement which the department determines is necessary or appropriate to protect water quality.

SEC. 2. Section 25200.6 is added to the Health and Safety Code,

to read:

25200.6. (a) The department shall not issue a hazardous waste facilities permit for an injection well or for the discharge of hazardous waste into an injection well unless all of the following conditions are met:

(1) A hydrogeological assessment report has been approved pursuant to Section 25159.18.

(2) The groundwater monitoring required by Section 25159.16 is included as a permit condition.

(3) The department finds that the hazardous wastes to be discharged cannot be reasonably and adequately reduced, treated, or disposed of by an alternative method other than well injection. This finding shall be in writing and shall be supported by evidence citing specific evidence presented to the department or evidence which is otherwise made available to the department. The department shall provide public notice and opportunity for comment before making this finding.

(4) The horizontal and vertical extent of the permitted injection zone specified pursuant to Section 25159.20 is included as a permit condition.

(5) The permit complies with and incorporates as a permit condition any waste discharge requirements issued by the state board or a regional board and the permit is consistent with all applicable water quality control plans adopted pursuant to Section 13170 of the Water Code and Article 3 (commencing with Section 13240) of Chapter 4 of Division 7 of the Water Code and with the state policies for water quality control adopted pursuant to Article 3 (commencing with Section 13140) of Chapter 3 of Division 7 of the Water Code, and any amendments made to these plans, policies, or requirements. The department may also include any more stringent requirement which the department determines is necessary or appropriate to protect water quality.

(b) Notwithstanding the requirement to submit a hydrogeological assessment report before application for a hazardous waste facility permit under Section 25259.18, or notwithstanding the requirement to have a hazardous waste facility permit or an approved hydrogeological assessment report before application for an exemption pursuant to subdivision (b) of Section 25159.15, the department shall process any applications for a hazardous waste facility permit to construct a new injection well from any person who has applied between May 15, 1984, and December 31, 1984, for an underground injection control permit from the federal Environmental Protection Agency pursuant to the Safe Drinking Water Act and who has received that permit by July 1, 1986, in the following manner:

(1) The department shall accept a concurrent filing of the hydrogeological assessment report required pursuant to Section 25159.18, the application for the hazardous waste facilities permit filed pursuant to this section, and an application for an exemption

filed pursuant to subdivision (b) of Section 25159.15.

(2) The department shall grant or deny the hazardous waste facilities permit within six months of the concurrent filing of a completed application as specified in paragraph (1). However, the department shall grant the hazardous waste facilities permit only if the conditions in subdivision (a) are met.

SEC. 3. Section 13051 is added to the Water Code, to read:

13051. As used in this division, "injection well" means any bored, drilled, or driven shaft, dug pit, or hole in the ground into which waste or fluid is discharged, and any associated subsurface appurtenances, and the depth of which is greater than the circumference of the shaft, pit, or hole.

SEC. 4. Section 13260 of the Water Code is amended to read:

13260. (a) All of the following persons shall file with the regional board of that region a report of the discharge, containing the information which may be required by the board:

(1) Any person discharging waste or proposing to discharge waste within any region that could affect the quality of the waters of the state, other than into a community sewer system.

(2) Any person who is a citizen, domiciliary, or political agency or entity of this state discharging waste or proposing to discharge waste outside the boundaries of the state in a manner that could affect the quality of the waters of the state within any region.

(3) Any person proposing to construct an injection well.

No report need be filed when the requirement is waived pursuant to Section 13269.

(b) Every person discharging waste shall file with the regional board of that region a report of any material change or proposed change in the character, location, or volume of the discharge.

(c) Each report under this section shall be sworn to or submitted under penalty of perjury.

(d) Each report under this section shall be accompanied by a filing fee of not to exceed fifty thousand dollars ($50,000) according to a reasonable fee schedule established by the state board. Fees shall be calculated on the basis of total flow, volume, number of animals, or area involved and shall be reasonably related to the costs to the regional board.

(e) When a report filed by any person pursuant to this section is not adequate in the judgment of the regional board, the board may require the person to supply the additional information which it deems necessary.

SEC. 5. Section 13263.5 is added to the Water Code, to read:

13263.5. (a) The state board or a regional board may require any person, including a person subject to a waste discharge requirement under Section 13263 of the Water Code, who is discharging, or who proposes to discharge, wastes or fluid into an injection well, to furnish the state board or regional board with a complete report on the condition and operation of the facility or injection well, or any other information that may be reasonably required to determine whether

the injection well threatens to pollute the waters of the state.

(b) The state board or regional board shall request a report of waste discharge for each injection well within its region which has not been issued a waste discharge requirement as of July 1, 1986, and shall issue requirements for these wells pursuant to Section 13263.

(c) When the regional board issues waste discharge requirements for any injection well into which hazardous waste is discharged, the waste discharge requirements shall be based upon the information contained in the hydrogeological assessment report prepared pursuant to Section 25159.18 of the Health and Safety Code and shall include conditions in the waste discharge requirements to ensure that the waters of the state are not polluted or threatened with pollution.

(d) If the state board applies to the federal Environmental Protection Agency to administer the Underground Injection Control Program pursuant to Part 145 (commencing with Section 145.1) of Subchapter D of Chapter 1 of Title 40 of the Code of Federal Regulations, that application shall not include a request to administer the Underground Injection Control Program for any oil, gas or geothermal injection wells supervised or regulated by the Division of Oil and Gas pursuant to Section 3106 or 3714 of the Public Resources Code.

(e) This section shall become operative on July 1, 1986.

SEC. 6. Section 13264 of the Water Code is amended to read:

13264. (a) No person shall initiate any new discharge of waste, make any material change in any discharge, initiate a discharge to, or construct an injection well prior to the filing of the report required by Section 13260 and no person shall take any of these actions after filing the report but before whichever of the following occurs first:

(1) The issuance of waste discharge requirements pursuant to Section 13263.

(2) The expiration of 120 days after compliance with Section 13260.

(3) The regional board's waiver pursuant to Section 13269.

(b) The Attorney General, at the request of a regional board, shall petition the superior court for the issuance of a temporary restraining order, preliminary injunction, or permanent injunction, or combination thereof, as may be appropriate, prohibiting any person who is violating or threatening to violate this section from doing any of the following, whichever is applicable:

(1) Discharging the waste in question.

(2) Making any material change in the waste in question.

SEC. 7. Section 13360 of the Water Code is amended to read:

13360. No waste discharge requirement or other order of a regional board or the state board or decree of a court issued under this division shall specify the design, location, type of construction, or particular manner in which compliance may be had with that requirement, order, or decree, and the person so ordered shall be permitted to comply with the order in any lawful manner. However,

the restrictions of this section shall not apply to waste discharge requirements or orders or decrees with respect to any of the following:

(a) Regarding disposal sites other than evaporation ponds from which there is no drainage or seepage, the discharge of solid waste requiring the installation of riprap, the construction of walls and dikes, the installation of surface and underground drainage facilities to prevent runoff from entering the disposal area or leakage to underground or surface waters, or other reasonable requirements to achieve the above or similar purposes.

(b) Discharges of waste or fluid to an injection well.

(c) If the court, in an action for an injunction brought under this division, finds that the enforcement of an injunction restraining the discharger from discharging waste would be impracticable, the court may issue any order reasonable under the circumstances requiring specific measures to be undertaken by the discharger to comply with the discharge requirements, order, or decree.

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, except that no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs which may be incurred by a local agency or school district 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 1592

An act to add Article 4 (commencing with Section 16770) to Chapter 2 of Part 2 of Division 7 of the Business and Professions Code, to add Section 1342.6 to the Health and Safety Code, and to add Section 10133.6 to the Insurance Code, relating to health.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Article 4 (commencing with Section 16770) is added to Chapter 2 of Part 2 of Division 7 of the Business and Professions Code, to read.

Article 4. Health Care Services

16770. (a) It is the intent of the Legislature to ensure that the citizens of this state receive high-quality health care coverage in the most efficient and cost-effective manner possible.

(b) In furtherance of this intent, the Legislature finds and declares that it is in the public interest to enhance the ability of California purchasers, providers, and payors to form efficient-sized bargaining units for the purpose of contracting for the delivery of health care services.

(c) This Legislature has previously demonstrated its intent in this area by the recent enactment of Chapters 328, 329, and 1594 of the Statutes of 1982 authorizing various types of contracts to be entered into between public or private purchasers or payors of health care coverage, and institutional or professional providers of health care services.

(d) The Legislature further finds and declares that individual providers or purchasers, whether institutional, professional, or otherwise, have not proven to be efficient-sized bargaining units for these contracts, and that the formation of groups and combinations of institutional and professional providers and purchasing groups for the purpose of creating efficient-sized contracting units represents a meaningful addition to the health care marketplace.

(e) The Legislature, however, recognizes that the 1982 decision of the U.S. Supreme Court in Arizona v. Maricopa Medical Society serves as a disincentive to the development of contracting for health care services because purchasers, providers, and payors who enter into contracts bear the risk of being found guilty of committing per se antitrust violations.

(f) The Legislature further finds and declares that the public interest in ensuring that citizens of this state receive high-quality health care coverage in the most efficient and cost-effective manner possible is furthered by permitting negotiations for alternative rate contracts between purchasers or payers of health care services, and institutional and professional providers, or through a person or entity acting for, or on behalf of, a purchaser, payer, or provider.

(g) It is the intent of the Legislature, therefore, that the formation of groups and combinations of providers and purchasing groups for the purpose of creating efficient-sized contracting units be recognized as the creation of a new product within the health care marketplace, and be subject, therefore, only to those antitrust prohibitions applicable to the conduct of other presumptively legitimate enterprises.

These provisions are in addition to those provided for under Section 1342.6 of the Health and Safety Code, Section 10133.6 of the Insurance Code, and Section 14105.25 of the Welfare and Institutions Code.

(h) This section does not change existing antitrust law as it relates to any agreement or arrangement to exclude from any of the

above-described groups or combinations, any person who is lawfully qualified to perform the services to be performed by the members of the group or combination, where the ground for the exclusion is failure to possess the same license or certification as is possessed by the members of the group or combination.

SEC. 2. Section 1342.6 is added to the Health and Safety Code, to read:

1342.6. It is the intent of the Legislature to ensure that the citizens of this state receive high-quality health care coverage in the most efficient and cost-effective manner possible. In furtherance of this intent, the Legislature finds and declares that it is in the public interest to promote various types of contracts between public or private payers of health care coverage, and institutional or professional providers of health care services. This intent has been demonstrated by the recent enactment of Chapters 328, 329, and 1594 of the Statutes of 1982, authorizing various types of contracts to be entered into between public or private payers of health care coverage, and institutional or professional providers of health care services. The Legislature further finds and declares that individual providers, whether institutional or professional, and individual purchasers, have not proven to be efficient-sized bargaining units for these contracts, and that the formation of groups and combinations of institutional and professional providers and combinations of purchasing groups for the purpose of creating efficient-sized contracting units represents a meaningful addition to the health care marketplace. The Legislature further finds and declares that negotiations between purchasers or payers of health services, and health care service plans governed by the provisions of this chapter, or through a person or entity acting for, or on behalf of, a purchaser or payer of health services, or a health care service plan, are in furtherance of the public's interest in obtaining quality health care services in the most efficient and cost-effective manner possible. It is the intent of the Legislature, therefore, that the formation of groups and combinations of providers and purchasing groups for the purpose of creating efficient-sized contracting units be recognized as the creation of a new product within the health care marketplace, and be subject, therefore, only to those antitrust prohibitions applicable to the conduct of other presumptively legitimate enterprises.

This section does not change existing antitrust law as it relates to any agreement or arrangement to exclude from any of the above-described groups or combinations, any person who is lawfully qualified to perform the services to be performed by the members of the group or combination, where the ground for the exclusion is failure to possess the same license or certification as is possessed by the members of the group or combination.

SEC. 3. Section 10133.6 is added to the Insurance Code, to read:

10133.6. It is the intent of the Legislature to ensure that the citizens of this state receive high-quality health care coverage in the

most efficient and cost-effective manner possible. In furtherance of this intent, the Legislature finds and declares that it is in the public interest to promote various types of contracts between public or private payers of health care coverage, and institutional or professional providers of health care services. This intent has been demonstrated by the recent enactment of Chapters 328, 329, and 1594 of the Statutes of 1982 authorizing various types of contracts to be entered into between public or private payers of health care coverage, and institutional or professional providers of health care services. The Legislature further finds and declares that individual providers, whether institutional or professional and individual purchasers, have not proven to be efficient-sized bargaining units for these contracts, and that the formation of groups and combinations of institutional and professional providers and purchasing groups for the purpose of creating efficient-sized contracting units represents a meaningful addition to the health care marketplace. The Legislature further finds and declares that the public interest in ensuring that citizens of this state receive high-quality health care coverage in the most efficient and cost-effective manner possible is furthered by permitting negotiations for alternative rate contracts between purchasers and payers and both institutional and professional providers, or through a person or entity acting for, or on behalf of, a health insurer or an institutional or professional provider, pursuant to Sections 10133 and 11512. It is the intent of the Legislature, therefore, that the formation of groups and combinations of purchasers, payers, and institutional and professional providers of health care services for the purpose of creating efficient-sized contracting units be recognized as the creation of a new product within the health care marketplace, and be subject, therefore, only to those antitrust prohibitions applicable to the conduct of other presumptively legitimate enterprises.

This section does not change existing antitrust law as it relates to any agreement or arrangement to exclude from any of the above-described groups or combinations, any person who is lawfully qualified to perform the services to be performed by the members of the group or combination, where the ground for the exclusion is failure to possess the same license or certification as is possessed by the members of the group or combination.

CHAPTER 1593

An act to amend Section 1596.853 of the Health and Safety Code, and to amend Section 11167.5 of, and to add Sections 11165.1, 11166.1, and 11174.1 to, the Penal Code, relating to child abuse, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 1596.853 of the Health and Safety Code is amended to read:

1596.853. (a) Any person may request an inspection of any child day care facility in accordance with the California Child Day Care Facilities Act by transmitting to the department notice of an alleged violation of applicable requirements prescribed by the statutes or regulations of this state. A complaint may be made either orally or in writing.

(b) The substance of the complaint shall be provided to the licensee no earlier than at the time of the inspection. Unless the complainant specifically requests otherwise, neither the substance of the complaint provided the licensee nor any copy of the complaint or any record published, released, or otherwise made available to the licensee shall disclose the name of any person mentioned in the complaint, except the name of any duly authorized officer, employee, or agent of the department conducting the investigation or inspection pursuant to this chapter.

(c) Upon receipt of a complaint, other than a complaint alleging denial of a statutory right of access to a child day care facility, the department shall make a preliminary review and, unless the department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, the department shall make an onsite inspection within 10 days after receiving the complaint. In either event, the complainant shall be promptly informed of the department's proposed course of action.

(d) Upon receipt of a complaint alleging denial of a statutory right of access to a child day care facility, the department shall review the complaint. The complainant shall be notified promptly of the department's proposed course of action.

(e) Upon denial, revocation, or temporary suspension of a license or within 24 hours of a finding that physical abuse or sexual abuse has occurred, the department shall notify the resource and referral agency funded under Section 8210 of the Education Code for that jurisdiction.

The resource and referral agency shall be notified of the final resolution.

(f) When the department substantiates an allegation which it deems to be serious, in a facility funded by the Child Development Division of the State Department of Education pursuant to Chapter 2 (commencing with Section 8200) of Part 6 of the Education Code it shall notify the Child Development Division.

SEC. 1.5. Section 1596.853 of the Health and Safety Code is amended to read:

1596.853. (a) Any person may request an inspection of any child

day care facility in accordance with the California Child Day Care Facilities Act by transmitting to the department notice of an alleged violation of applicable requirements prescribed by the statutes or regulations of this state. A complaint may be made either orally or in writing.

(b) The substance of the complaint shall be provided to the licensee no earlier than at the time of the inspection. Unless the complainant specifically requests otherwise, neither the substance of the complaint provided the licensee nor any copy of the complaint or any record published, released, or otherwise made available to the licensee shall disclose the name of any person mentioned in the complaint, except the name of any duly authorized officer, employee, or agent of the department conducting the investigation or inspection pursuant to this chapter.

(c) Upon receipt of a complaint, the department shall make a preliminary review and, unless the department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, the department shall make an onsite inspection within 10 days after receiving the complaint. In either event, the complainant shall be promptly informed of the department's proposed course of action.

(d) Upon denial, revocation, or temporary suspension of a license or within 24 hours of a finding that physical abuse or sexual abuse has occurred, the department shall notify the resource and referral agency funded under Section 8210 of the Education Code for that jurisdiction.

The resource and referral agency shall be notified of the final resolution.

(e) When the department substantiates an allegation which it deems to be serious, in a facility funded by the Child Development Division of the State Department of Education pursuant to Chapter 2 (commencing with Section 8200) of Part 6 of the Education Code it shall notify the Child Development Division.

SEC. 2. Section 11165.1 is added to the Penal Code, to read:

11165.1. For purposes of subdivision (f) of Section 11165, "abuse in out-of-home care" also 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 an administrator or employee of any facility licensed to care for children.

SEC. 3. Section 11166.1 is added to the Penal Code, to read:

11166.1. When a child protective agency receives a report of abuse alleged to have occurred in facilities licensed to care for children by the State Department of Social Services, it shall, within 24 hours, notify the licensing office with jurisdiction over the facility.

SEC. 4. Section 11167.5 of the Penal Code is amended to read:

11167.5. (a) The reports required by Section 11166 shall be confidential and may be disclosed only as provided in subdivision

(b). Any violation of the confidentiality provided by this article shall be a misdemeanor punishable by up to six months in jail or by a fine of five hundred dollars ($500) or by both.

(b) Reports of suspected child abuse and information contained therein may be disclosed only to the following:

(1) Persons or agencies to whom disclosure of the identity of the reporting party is permitted under Section 11167.

(2) Persons or agencies to whom disclosure of information is permitted under subdivision (b) of Section 11170.

(3) Persons or agencies with whom investigations of child abuse are coordinated under the regulations promulgated under Section 11174.

(4) Multidisciplinary personnel teams as defined in subdivision (d) of Section 18951 of the Welfare and Institutions Code.

(5) Persons or agencies responsible for the licensing of facilities which care for children, as specified in Section 11166.1.

(c) Nothing in this section shall be interpreted to require the Department of Justice to disclose information contained in records maintained under Section 11169 or under the regulations promulgated pursuant to Section 11174, except as otherwise provided in this article.

(d) This section shall not be interpreted to allow disclosure of any reports or records relevant to the reports of child abuse if the disclosure would be prohibited by any other provisions of state or federal law applicable to the reports or records relevant to the reports of child abuse.

SEC. 5. Section 11174.1 is added to the Penal Code, to read:

11174.1. The Department of Justice, in cooperation with the State Department of Social Services, shall prescribe by regulation guidelines for the investigation of child abuse, as defined in subdivision (f) of Section 11165, in facilities licensed to care for children, and shall ensure that the investigation is conducted in accordance with the regulations and guidelines.

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. Section 1.5 of this bill incorporates amendments to Section 1596.853 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 or before January 1, 1986, but this bill becomes operative first, (2) each bill amends Section 1596.853 of the Health and Safety Code, and (3) this bill is enacted after SB 84, in which case Section 1596.853 of the Health and Safety Code, as amended by Section 1 of this bill, shall remain operative only until the operative date of SB 84, at which time Section 1.5 of this bill shall

become operative.

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 coordinate the reporting of child abuse at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1594

An act to amend Sections 25121 and 25121.5 of, to amend and renumber Sections 25122 and 25122.5 of, and to add Sections 25116.5, 25143.2, and 25143.3 to, the Health and Safety Code, relating to hazardous waste.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 25116.5 is added to the Health and Safety Code, to read:

25116.5. "Hazardous" means a characteristic which meets both of the following:

(a) Has the capability of doing either of the following:

(1) Causing or significantly contributing to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness.

(2) Posing a substantial present or potential risk to human health or the environment.

(b) Conforms to a criterion adopted by the department pursuant to Section 25141.

SEC. 2. Section 25121 of the Health and Safety Code is amended to read:

25121. "Recycle" means to use, reuse, or reclaim a hazardous waste or a substance from a hazardous waste, and includes the recovery of resources from a hazardous waste.

SEC. 3. Section 25121.5 of the Health and Safety Code is amended to read:

25121.5. "Retrograde material" means any hazardous material which is not to be used, sold, or distributed for use in an originally intended or prescribed manner or for an originally intended or prescribed purpose and which meets any one or more of the following criteria:

(a) Has undergone chemical, biochemical, physical, or other changes due to the passage of time or the environmental conditions under which it was stored.

(b) Has exceeded a specified or recommended shelf life.

(c) Is banned by law, regulation, ordinance, or decree.

(d) Cannot be used for reasons of economics, health or safety, or environmental hazard.

SEC. 4. Section 25122 of the Health and Safety Code is amended and renumbered to read:

25124. "Waste" means any of the following:

(a) Any material for which no use or reuse is intended and which is to be discarded.

(b) Any recyclable material.

(c) Any material which poses a threat to public health or the environment and which meets either, or both, of the following conditions:

(1) Is mislabeled or is not adequately labeled, unless the material is correctly labeled or adequately labeled within 10 days after the material is discovered to be mislabeled or inadequately labeled.

(2) Is packaged in deteriorated or damaged containers, unless the material is contained in sound or undamaged containers within 96 hours after the containers are discovered to be deteriorated or damaged.

SEC. 5. Section 25122.5 of the Health and Safety Code is amended and renumbered to read:

25120.5. "Recyclable material" means a hazardous waste that is capable of being recycled and is any one of the following:

(a) A residue.

(b) A spent material, including, but not limited to, a used or spent stripping or plating solution or etchant.

(c) A material that is contaminated to such an extent that it can no longer be used for the purpose for which it was originally purchased or manufactured.

(d) Any material which, if it is to be recycled, is regulated by the Environmental Protection Agency pursuant to Subtitle C of Public Law 94-580, as amended (the Resource Conservation and Recovery Act of 1976, 42 U.S.C. Sec. 6901 et seq.).

(e) Any retrograde material that has not been used, distributed, or reclaimed through treatment by the original manufacturer or owner by the later of the followng dates:

(1) One year after the date when the material became a retrograde material.

(2) One year after the material is returned to the original manufacturer.

SEC. 6. Section 25143.2 is added to the Health and Safety Code, to read:

25143.2. (a) A recyclable material is subject to the requirements of this chapter which apply to hazardous waste unless the department waives the provision of this chapter pursuant to Section 25143, or except as provided otherwise in subdivision (b) or the regulations adopted by the department pursuant to Sections 25150 and 25151.

(b) Except as otherwise provided in subdivision (c), recyclable

material is exempt from regulation under this chapter if the material meets any of the following conditions:

(1) Is recycled and used at the site where the material was generated.

(2) Has been handled by a facility authorized by the department pursuant to Article 9 (commencing with Section 25200) if the material resulting from the facility's handling process meets both of the following requirements:

(A) Contains no hazaradous constituents, other than those for which the material is being recycled.

(B) Is used, or distributed or sold for use, in a manner for which that material is commonly used.

(3) No longer conforms to a criterion adopted by the department pursuant to Section 25141.

(4) Is transferred between two or more facilities operated by the same person, if the material is being transferred for purposes of recycling.

(5) Is both transported and used, or reused, as an ingredient in an industrial process to make a product, provided the material is not being treated before that use or reuse.

(6) Is both transported and used, or reused, as a safe and effective substitute for a commercial product.

(7) Is returned to the original process from which it was generated, without first being treated. The material shall be returned as a substitute for raw material feedstock, and the process shall use raw materials as principal feedstocks.

(8) Is a petroleum refinery waste containing oil which is converted into petroleum coke at the same facility at which the waste was generated, unless the resulting coke product would be identified as a hazardous waste under this chapter or Public Law 94-580, as amended (the Resource Conservation and Recovery Act of 1976, 42 U.S.C. Sec. 6901 et seq.). This waste is exempt under this chapter to the same extent that this waste is exempt under subsections (q), (r), and (s) of Section 6924 of Title 42 of the United States Code.

(9) Is an oily waste, used oil, or spent nonhalogenated solvent which is managed by the owner or operator of a refinery which is processing primarily crude oil and which is not subject to permit requirements for recycling of used oil, or a public utility, or a corporate subsidiary, corporate parent, or subsidiary of the same corporate parent of the refinery or public utility, and which meets all of the following requirements:

(A) The material is either burned in an industrial boiler, an industrial furnace, an incinerator, or a utility boiler which complies with all applicable federal and state laws, or is recombined with normal process streams to produce a fuel.

(B) The material is either of the following:

(i) Managed at the site where it was generated.

(ii) Managed at another site owned or operated by the generator,

a corporate subsidiary of the generator, a subsidiary of the same entity of which the generator is a subsidiary, or the corporate parent of the generator.

(C) The material contains no hazardous constituents other than those for which the material is being recycled.

(c) Notwithstanding subdivision (b), all of the following recyclable materials are subject to the requirements of this chapter which apply to hazardous waste.

(1) Any material used in a manner constituting disposal of the material, or any material used to produce a product that is applied to the land as a fertilizer, soil amendment, agricultural mineral, or an auxiliary soil and plant substance.

(2) Any material burned for energy recovery, used to produce a fuel, or is contained in a fuel, except a material exempted under paragraph (9) of subdivision (b).

(3) Any material accumulated speculatively.

(4) Any materials that have been determined by the Environmental Protection Agency to be inherently waste-like pursuant to Subtitle C of Public Law 94-580, as amended (the Resource Conservation and Recovery Act of 1976, 42 U.S.C. Sec. 6901 et seq.).

(5) Used or spent etchants, stripping solutions, and plating solutions, which are transported to an offsite facility operated by a person other than the generator and which conform to either of the following:

(A) Meet a characteristic or a criterion of a hazardous waste established by the Environmental Protection Agency or the department.

(B) Are listed by the Environmental Protection Agency or the department as a hazardous waste.

(6) Any materials which, if it is to be recycled, is regulated by the Environmental Protection Agency pursuant to Subtitle C of Public Law 94-580, as amended (the Resource Conservation and Recovery Act of 1976, 42 U.S.C. Sec. 6901 et seq.).

(d) This section does not limit, abridge, or supersede any authority granted to the department pursuant to Section 25143.

(e) If the department brings an action to enforce this chapter, any person subject to the action who claims that a certain recyclable material is excluded, exempt, or conditionally exempt, from regulation under this chapter, shall demonstrate that there is a known market or disposition for the material, and that the material meets the requirements of any exemption, exclusion, or conditional exemption from this chapter, by providing appropriate documentation to demonstrate that the material is excluded, exempt, or conditionally exempt, from regulation. Any person subject to such an enforcement action and making such a claim who is a generator of hazardous waste shall provide to the department, upon request, the name, street and mailing address, and telephone number of the owner or operator of the facility that uses or reuses

the generator's hazardous waste and a copy of the contract showing that the facility owner or operator uses or reuses that waste as an ingredient in a production process without prior treatment of the waste. Any owner or operator of a facility subject to an action to enforce this chapter who claims to be recycling materials shall show that the facility has the necessary equipment to recycle the material.

SEC. 7. Section 25143.3 is added to the Health and Safety Code, to read:

25143.3. The Environmental Protection Agency regulations regarding spent sulfuric acid as set forth in Section 261.4(a)(7) of Title 40 of the Code of Federal Regulations (50 Fed. Reg. 665) are the regulations of the department and shall remain in effect until the department adopts regulations regarding this subject. It is the intent of the Legislature that the regulations adopted by the department be at least equivalent to, and in substantial conformance with that Section 261.4(a)(7). Further, it is the intent of the Legislature that the department may define in the regulations the term "spent sulfuric acid" as it deems necessary to avoid sham recycling, as described on page 638 of Volume 50 of the Federal Register by the Environmental Protection Agency.

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, except that no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs which may be incurred by a local agency or school district 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 1595

An act to amend Section 11489 of the Health and Safety Code, and to amend Item 0820-101-469 of the Budget Act of 1985, relating to narcotics, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 11489 of the Health and Safety Code is amended to read:

11489. Notwithstanding Section 11502 and except as otherwise

provided in Sections 11473 and 11473.2, in all cases where the property is seized pursuant to this chapter and forfeited to the state or local governmental entity and, where necessary, sold by the Department of General Services or local governmental entity, the money forfeited or the proceeds of sale shall be distributed by the state or local governmental entity as follows:

(a) To the bona fide or innocent purchaser, conditional sales vendor, or mortgagee of the property, if any, up to the amount of his or her interest in the property, when the court declaring the forfeiture orders a distribution to that person.

(b) The balance, if any, to accumulate, and from time to time, as the proceeds become sufficient, to be distributed as follows:

(1) To the Department of General Services or local governmental entity for all expenditures made or incurred by it in connection with the sale of the property, including expenditures for any necessary repairs, storage, or transportation of any property seized under this chapter.

(2) (A) Fifty percent of the remaining funds shall be allocated to the Department of Mental Health for primary prevention programs in accordance with Chapter 1083 of the Statutes of 1981.

(B) The remaining 50 percent shall be distributed to the local governmental entity or the state for all expenditures made or incurred by the local governmental entity's law enforcement and prosecutorial agency, or any state agency, in connection with the forfeiture proceedings and underlying criminal conviction, including, but not limited to, personnel costs, expenditures for witness' fees, reporters' fees, transcripts, printing, traveling, undertakings, and investigation. Any remainder shall be distributed to the Controller for deposit into the Narcotics Assistance and Relinquishment by Criminal Offender Fund as provided in Section 11493.

All funds distributed to a local governmental entity under this subparagraph shall be distributed by that entity only to its law enforcement and prosecutorial agency to be used solely for investigation, detection, and prosecution of criminal activities. All funds distributed to the state under this subparagraph shall be allocated to the Department of Justice for investigation, detection, and prosecution of criminal activities. The first priority for the fund shall be to support financial investigator positions within the Department of Justice which will be utilized to support financial investigation undertakings by local or state law enforcement agencies. Funds distributed under this subparagraph shall not supplant any local funds that would, in the absence of the provisions of this subparagraph, be made available to support the law enforcement and prosecutorial efforts of local agencies.

(C) Notwithstanding Item 0820-101-469 of the Budget Act of 1985, all funds allocated to the Department of Justice by the federal government under its Federal Asset Forfeiture program authorized by the Comprehensive Crime Control Act of 1984 may be deposited

directly into the Narcotics Assistance and Relinquishment by Criminal Offender Fund and used for the law enforcement efforts of state and local governments pursuant to Section 11493. All funds deposited pursuant to this section shall be used to support the department's supervised Narcotic Task Force operation.

Funds which are not deposited pursuant to the above paragraph shall be deposited into the Department of Justice Special Deposit Fund-Federal Asset Forfeiture Account.

(3) Each governmental agency seeking reimbursement under this subdivision shall notify the district attorney or the Attorney General prosecuting the forfeiture of the nature and amount of its claim. The prosecuting agency shall petition the court for these costs and the court shall order the forfeiture proceeds distributed to the local governmental entity or the state for any agency expenditures. Should the amount forfeited be insufficient to pay all expenditures claimed, the court shall order the funds distributed on a pro rata basis.

(c) For the purposes of this section, "local governmental entity" means any city, county, or city and county in this state.

SEC. 1.5. Section 11489 of the Health and Safety Code is amended to read:

11489. Notwithstanding Section 11502 and except as otherwise provided in Sections 11473 and 11473.2, in all cases where the property is seized pursuant to this chapter and forfeited to the state or local governmental entity and, where necessary, sold by the Department of General Services or local governmental entity, the money forfeited or the proceeds of sale shall be distributed by the state or local governmental entity as follows:

(a) To the bona fide or innocent purchaser, conditional sales vendor, or mortgagee of the property, if any, up to the amount of his or her interest in the property, when the court declaring the forfeiture orders a distribution to that person.

(b) The balance, if any, to accumulate, and to be distributed and transferred quarterly in the following manner:

(1) To the Department of General Services or local governmental entity for all expenditures made or incurred by it in connection with the sale of the property, including expenditures for any necessary repairs, storage, or transportation of any property seized under this chapter.

(2)

The local governmental entity or the state shall be reimbursed for all expenditures made or incurred by the local governmental entity's law enforcement and prosecutorial agency or any state agency, in connection with the forfeiture proceedings and criminal conviction, including, but not limited to, personnel costs, expenditures for witness' fees, reporters' fees, transcripts, printing, traveling, undertakings, and investigation.

(3) The remaining funds shall be allocated equally to each of the following:

(A) The State Department of Mental Health for deposit in the Mental Health Primary Prevention Fund for primary prevention programs in accordance with Chapter 1083 of the Statutes of 1981. There is hereby created in the State Treasury the Mental Health Primary Prevention Fund. Notwithstanding Section 13340 of the Government Code, the moneys in the Mental Health Primary Prevention Fund are hereby continuously appropriated to the State Department of Mental Health to expend for primary prevention programs in accordance with Chapter 6 (commencing with Section 5475) of Part 1 of Division 5 of the Welfare and Institutions Code. Expenditures may include administrative costs incurred by the department. These administrative costs are not to exceed 5 percent of the fund. Notwithstanding the provisions of Section 16305.7 of the Government Code, any interest earned or other increment derived from investments made from moneys in the fund shall be deposited in the Mental Health Primary Prevention Fund.

(B) The Controller for deposit into the Narcotics Assistance and Relinquishment by Criminal Offender Fund as provided in Section 11493.

(C) Notwithstanding Item 0820-101-469 of the Budget Act of 1985, all funds allocated to the Department of Justice by the federal government under its Federal Asset Forfeiture program authorized by the Comprehensive Crime Control Act of 1984 may be deposited directly into the Narcotics Assistance and Relinquishment by Criminal Offender Fund and used for the law enforcement efforts of state and local governments pursuant to Section 11493. All funds deposited pursuant to this section shall be used to support the department's supervised Narcotic Task Force operation.

Funds which are not deposited pursuant to the above paragraph shall be deposited into the Department of Justice Special Deposit Fund-Federal Asset Forfeiture Account.

(c) All the funds distributed to a local governmental entity pursuant to paragraph (2) of subdivision (b) shall be distributed by that entity only to its law enforcement and prosecutorial agency to be used solely for investigation, detection, and prosecution of criminal activities. All funds distributed to the state pursuant to paragraph (2) of subdivision (b) shall be allocated to the Department of Justice for investigation, detection, and prosecution of criminal activities.

Each governmental agency seeking reimbursement under this subdivision shall notify the district attorney or the Attorney General prosecuting the forfeiture of the nature and amount of its claim. The prosecuting agency shall petition the court for these costs and the court shall order the forfeiture proceeds distributed to the local governmental entity or the state for any agency expenditures. Should the amount forfeited be insufficient to pay all expenditures claimed, the court shall order the funds distributed on a pro rata basis.

For the purposes of this section, "local governmental entity"

means any city, county, or city and county in this state.

All property seized and all proceeds from the sale of property seized pursuant to this chapter prior to the effective date of the amendments to this section made in the first year of the 1985–86 Regular Session shall be distributed in accordance with the provisions of this section in effect prior to those amendments.

SEC. 2. Item 0820-101-469 of the Budget Act of 1985 is amended to read:

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. The remaining revenues deposited shall be divided equally for repayment of any outstanding loans and for local assistance grants from the NARCO Fund.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 11489 of the Health and Safety Code proposed by both this bill and AB 1934. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1986, but this bill becomes operative first, (2) each bill amends Section 11489 of the Health and Safety Code, and (3) this bill is enacted after AB 1934, in which case Section 11489 of the Health and Safety Code, as amended by Section 1 of this bill, shall remain operative only until the operative date of AB 1934, at which time Section 1.5 of this bill shall become operative.

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 insure the availability of funds for the purposes of this act, it is necessary that this act take effect immediately.

CHAPTER 1596

An act to add Section 11018.6 to the Business and Professions Code, to amend Section 1360 of, and to add Section 1368 to, the Civil Code, relating to subdivisions.

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

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

SECTION 1. Section 11018.6 is added to the Business and Professions Code, to read:

11018.6. Any person offering to sell or lease any interest subject to the requirements of subdivision (a) of Section 11018.1 in a subdivision described in Section 11004.5 shall make a copy of each of the following documents available for examination by a prospective purchaser or lessee before the execution of an offer to purchase or lease and shall give a copy thereof to each purchaser or lessee as soon as practicable before transfer of the interest being acquired by the purchaser or lessee:

(a) The declaration of covenants, conditions, and restrictions for the subdivision.

(b) Articles of incorporation or association for the subdivision owners association.

(c) Bylaws for the subdivision owners association.

(d) Any other instrument which establishes or defines the common, mutual, and reciprocal rights, and responsibilities of the owners or lessees of interests in the subdivision as shareholders or members of the subdivision owners association or otherwise.

(e) To the extent available, the current financial statement and related statements specified in subdivision (a) of Section 1730 of the Civil Code, for subdivisions subject to those provisions.

(f) A statement prepared by the governing body of the association setting forth the outstanding delinquent assessments and related charges levied by the association against the subdivision interests in question under authority of the governing instruments for the subdivision and association.

SEC. 2. Section 1360 of the Civil Code is amended to read:

1360. (a) The owner of a lot or unit in any of the subdivisions referred to in Section 11004.5 of the Business and Professions Code, other than an owner subject to the requirements of Section 11018.6 of the Business and Professions Code, shall, as soon as practicable before transfer of title or the execution of a real property sales contract as defined in Section 2985, give to the prospective purchaser a copy of the declarations of restrictions, bylaws, and articles of incorporation affecting rights to the property being offered for transfer, and a true statement in writing from the governing body of any of the subdivisions referred to in Section 11004.5 of the Business and Professions Code as to the amount of any delinquent assessments and information relating to penalties, attorney's fees, and other charges therein as provided by the declaration of restrictions of the subdivision or the management documents of the governing body on the lot or unit as of the date the statement is issued, and a copy of the most current financial statements, as defined in Section 1730,

which have already been distributed to the owner of such a unit.

(b) Upon written request, the governing body of any of the subdivisions referred to in subdivision (a) shall, within 10 days of the mailing or delivery of the request, provide the owner of a lot or unit in that subdivision (including the owner of a lot or unit prior to its initial sale or lease) with a copy of the declarations of restrictions, bylaws, and articles of incorporation applicable to that subdivision, together with a true statement in writing as to the amount of any delinquent assessments, penalties, attorney's fees, and other charges therein as provided by the declaration of restrictions of the subdivision or the management documents of the governing body on the lot or unit as of the date of the request. The governing body may impose a fee for providing the documents and statement, but in no event shall the fee exceed the reasonable cost to prepare and reproduce the requested documents.

(c) Any person or entity who willfully violates the provisions of this section shall be liable to the purchaser of a lot or unit which is subject to the provisions of this section for the actual damages and in addition thereto shall pay the purchaser a penal sum in an amount not to exceed five hundred dollars ($500), and in an action to enforce this liability, the prevailing party shall be awarded reasonable attorney's fees.

(d) Nothing in this section shall affect the validity of title to real property transferred in violation of the provisions of this section.

SEC. 2.5. Section 1360 of the Civil Code is amended to read:

1360. (a) The owner of a lot or unit in any of the subdivisions referred to in Section 11004.5 of the Business and Professions Code, other than an owner subject to the requirements of Section 11018.6 of the Business and Professions Code, shall, as soon as practicable before transfer of title or the execution of a real property sales contract as defined in Section 2985, give all of the following to the prospective purchaser:

(1) A copy of the declarations of restrictions, and, if the restrictions limit occupancy, residency, or use on the basis of age in a manner different from that provided in Section 51.3, also a statement that the restrictions are only enforceable to the extent permitted by Section 51.3 and a statement specifying the applicable provisions of Section 51.3.

(2) Bylaws.

(3) Articles of incorporation affecting rights to the property being offered for transfer.

(4) A true statement in writing from the governing body of any of the subdivisions referred to in Section 11004.5 of the Business and Professions Code as to the amount of any delinquent assessments and information relating to penalties, attorney's fees, and other charges therein as provided by the declaration of restrictions of the subdivision or the management documents of the governing body on the lot or unit as of the date the statement is issued.

(5) A copy of the most current financial statements, as defined in

Section 1730, which have already been distributed to the owner of such a unit.

(b) Upon written request, the governing body of any of the subdivisions referred to in subdivision (a) shall, within 10 days of the mailing or delivery of the request, provide the owner of a lot or unit in that subdivision (including the owner of a lot or unit prior to its initial sale or lease) with copies of the documents or statements specified in subdivision (a) which are applicable to the subdivision. The governing body may impose a fee for providing the documents and statement, but in no event shall the fee exceed the reasonable cost to prepare and reproduce the requested documents.

(c) Any person or entity who willfully violates the provisions of this section shall be liable to the purchaser of a lot or unit which is subject to the provisions of this section for the actual damages and in addition thereto shall pay the purchaser a penal sum in an amount not to exceed five hundred dollars ($500), and in an action to enforce this liability, the prevailing party shall be awarded reasonable attorney's fees.

(d) Nothing in this section shall affect the validity of title to real property transferred in violation of the provisions of this section.

SEC. 3. Section 1368 is added to the Civil Code, to read:

1368. (a) The owner of a separate interest, other than an owner subject to the requirements of Section 11018.6 of the Business and Professions Code, shall, as soon as practicable before transfer of title to the separate interest or execution of a real property sales contract therefor, as defined in Section 2985, provide the following to the prospective purchaser:

(1) A copy of the governing documents of the common interest development.

(2) A copy of the most recent financial statement distributed pursuant to Section 1365.

(3) A true statement in writing from an authorized representative of the association as to the amount of any assessments levied upon the owner's interest in the common interest development which are unpaid on the date of the statement. The statement shall also include true information on late charges, interest, and costs of collection which, as of the date of the statement, are or may be made a lien upon the owner's interest in a common interest development pursuant to Section 1367.

(b) Upon written request, an association shall, within 10 days of the mailing or delivery of the request, provide the owner of a separate interest with a copy of the requested items specified in paragraphs (1), (2), and (3) of subdivision (a). The association may charge a fee for this service, which shall not exceed the association's reasonable cost to prepare and reproduce the requested items.

(c) Any person or entity who willfully violates this section shall be liable to the purchaser of a separate interest which is subject to this section for actual damages occasioned thereby and, in addition, shall pay a civil penalty in an amount not to exceed five hundred dollars

($500). In an action to enforce this liability, the prevailing party shall be awarded reasonable attorneys' fees.

(d) Nothing in this section affects the validity of title to real property transferred in violation of this section.

(e) In addition to the requirements of this section, an owner transferring title to a separate interest shall comply with applicable requirements of Sections 1133 and 1134.

SEC. 4. Section 1368 is added to the Civil Code, to read:

1368. (a) The owner of a separate interest, other than an owner subject to the requirements of Section 11018.6 of the Business and Professions Code, shall, as soon as practicable before transfer of title to the separate interest or execution of a real property sales contract therefor, as defined in Section 2985, provide the following to the prospective purchaser:

(1) A copy of the governing documents of the common interest development.

(2) If there is a restriction in the governing documents limiting the occupancy, residency, or use of a separate interest on the basis of age in a manner different from that provided in Section 51.3, a statement that the restriction is only enforceable to the extent permitted by Section 51.3 and a statement specifying the applicable provisions of Section 51.3.

(3) A copy of the most recent financial statement distributed pursuant to Section 1365.

(4) A true statement in writing from an authorized representative of the association as to the amount of any assessments levied upon the owner's interest in the common interest development which are unpaid on the date of the statement. The statement shall also include true information on late charges, interest, and costs of collection which, as of the date of the statement, are or may be made a lien upon the owner's interest in a common interest development pursuant to Section 1367.

(b) Upon written request, an association shall, within 10 days of the mailing or delivery of the request, provide the owner of a separate interest with a copy of the requested items specified in paragraphs (1), (2), (3), and (4) of subdivision (a). The association may charge a fee for this service, which shall not exceed the association's reasonable cost to prepare and reproduce the requested items.

(c) Any person or entity who willfully violates this section shall be liable to the purchaser of a separate interest which is subject to this section for actual damages occasioned thereby and, in addition, shall pay a civil penalty in an amount not to exceed five hundred dollars ($500). In an action to enforce this liability, the prevailing party shall be awarded reasonable attorneys' fees.

(d) Nothing in this section affects the validity of title to real property transferred in violation of this section.

(e) In addition to the requirements of this section, an owner transferring title to a separate interest shall comply with applicable

requirements of Sections 1133 and 1134.

SEC. 5. (a) Section 2.5 of this bill incorporates amendments to Section 1360 of the Civil Code proposed by both this bill and SB 758. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 1360 of the Civil Code, (3) AB 314 is not enacted, and (4) this bill is enacted after SB 758, in which case Sections 2, 3, and 4 of this bill shall not become operative.

(b) If (1) both this bill and AB 314 are enacted and become effective January 1, 1986, (2) AB 314 adds a Section 1368 to the Civil Code, (3) this bill is enacted after AB 314, and (4) SB 758 is not enacted or as enacted does not amend Section 1360 of the Civil Code, then Section 1368 shall be added to the Civil Code in the form set forth in Section 3 of this bill, Sections 2, 2.5, and 4 of this bill shall not become operative, and Section 1368 of the Civil Code, as proposed to be added by Section 14 of AB 314, shall not become operative.

(c) If (1) this bill, AB 314, and SB 758 are all enacted and become effective January 1, 1986, (2) AB 314 adds a Section 1368 to the Civil Code, (3) SB 758 amends Section 1360 of the Civil Code, (4) and this bill is enacted after AB 314 and SB 758, then Section 1368 shall be added to the Civil Code in the form set forth in Section 4 of this bill, Sections 2, 2.5, and 3 of this bill shall not become operative, the amendments to Section 1360 of the Civil Code proposed by SB 758 shall not become operative, and Section 1368 of the Civil Code, as proposed to be added by Section 14 of AB 314, shall not become operative.

CHAPTER 1597

An act to amend Sections 46145, 46201, and 60242 of, to add Sections 2550.2, 2558.1, 23400.1, 23400.3, 42238.10, 42288, 42289, and 84700.5 to, and to repeal and add Section 22720 of, the Education Code, relating to education, and making an appropriation therefor.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 2550.2 is added to the Education Code, to read:

2550.2. The Superintendent of Public Instruction shall make the following computations to determine the revenue limits for juvenile court school programs operated by county superintendents of schools pursuant to Article 2.5 (commencing with Section 48645) of Chapter 4 of Part 27:

(a) For the 1985–86 fiscal year and each fiscal year thereafter, add to the prior fiscal year revenue limit per unit of average daily

attendance for juvenile court school programs all of the following amounts:

(1) An equalization adjustment for revenue limits per unit of average daily attendance that in the 1984–85 fiscal year were below the statewide average for that fiscal year, computed as follows:

(A) Subtract the county's 1984–85 fiscal year revenue limit per unit of average daily attendance from the statewide average revenue limit for juvenile court school programs for the 1984–85 fiscal year.

(B) For each of the 1985–86, 1986–87, and 1987–88 fiscal years, one-third of the amount calculated pursuant to subparagraph (A).

(C) Notwithstanding subdivision (c), for the 1988–89 fiscal year, the difference, if any, between the amount calculated pursuant to subparagraph (A) and the sum of the amount actually added to the revenue limit in each of the 1985–86, 1986–87, and 1987–88 fiscal years pursuant to this subdivision.

(2) An inflation adjustment equal to the percentage increase applied to the statewide average revenue limit for school districts multiplied by the statewide average revenue limit for juvenile court school programs for the prior fiscal year.

(b) The Superintendent of Public Instruction shall multiply the revenue limit per unit of average daily attendance computed in subdivision (a) by the number of units of average daily attendance for county juvenile court school programs for the current fiscal year.

(c) In no event shall the amount computed pursuant to paragraph (1) of subdivision (a) exceed the amount computed pursuant to paragraph (2) of subdivision (a).

(d) As a condition of receiving an equalization adjustment pursuant to paragraph (1) of subdivision (a), the county superintendent of schools shall certify to the Superintendent of Public Instruction that all the funds received pursuant to this section are expended solely for purposes of operating juvenile court school programs pursuant to Article 2.5 (commencing with Section 48645) of Chapter 4 of Part 27 or of serving pupils enrolled in community schools pursuant to subdivision (c) of Section 1981.

SEC. 2. Section 2558.1 is added to the Education Code, to read:

2558.1. For the 1986–87 fiscal year and each fiscal year thereafter, the apportionment computed pursuant to subdivision (d) of Section 2558 shall be increased by the amount reported by the Teachers' Retirement Board for that county office of education under Section 23400.3. This additional amount shall be increased annually by the amount of the inflation allowance computed under Section 2557.

SEC. 3. Section 22720 of the Education Code is repealed.

SEC. 4. Section 22720 is added to the Education Code, to read:

22720. (a) The Teachers' Retirement Board shall establish rules and regulations for the purpose of billing school employers for service credit awarded for sick leave, including, but not limited to, both of the following provisions:

(1) The billing shall be authorized only if the employer grants more than one day of sick leave per pay period of at least four weeks

for members of the State Teachers' Retirement System.

(2) The employer shall be billed only for the present value of sick leave greater than one day per pay period of at least four weeks that is granted to members of the State Teachers' Retirement System.

(b) If a school employer fails to pay a bill charged according to the rules and regulations established pursuant to subdivision (a), the Teachers' Retirement Board may request the Superintendent of Public Instruction or the Chancellor of the California Community Colleges, as appropriate, to reduce state apportionments to the school employer by an amount equal to the amount billed. The superintendent or chancellor shall make the reduction, and if requested by the board, direct the Controller to reduce the amount transferred from the General Fund to Section A or Section B, as appropriate, of the State School Fund by an equal amount, which shall instead be transferred to the Teachers' Retirement Fund.

SEC. 5. Section 23400.1 is added to the Education Code, to read:

23400.1. (a) In addition to any other contributions required by this part, the school districts and other agencies employing members of the State Teachers' Retirement System shall contribute monthly to the Teachers' Retirement Fund 0.25 percent of the total of the salaries upon which members' contributions are based. This subdivision shall become operative July 1, 1986.

(b) For the 1985–86 fiscal year only, the Teachers' Retirement Board shall report to the Controller an amount equal to 0.25 percent of the total of the salaries upon which the contributions of members of the State Teachers' Retirement System are based. On January 1, 1986, the Controller shall transfer that amount from the General Fund to the Teachers' Retirement Fund.

SEC. 6. Section 23400.3 is added to the Education Code, to read:

23400.3. The Teachers' Retirement Board shall report to the Superintendent of Public Instruction, the Chancellor of the California Community Colleges, and the Controller, for each school district, community college district, and county office of education, an amount equal to 0.25 percent of the salaries during the 1985–86 fiscal year upon which the contributions of members of the State Teachers' Retirement System are based, and any other information that is necessary to determine the amounts to be allocated pursuant to Sections 2558.1, 42238.3, and 84700.5.

SEC. 7. Section 42238.10 is added to the Education Code, to read:

42238.10. For the 1986–87 fiscal year, the amount computed pursuant to subdivision (b) of Section 42238 shall be increased by the amount reported by the Teachers' Retirement Board for that school district under Section 23400.3, divided by the district's second principal apportionment average daily attendance for the 1985–86 fiscal year.

SEC. 8. Section 42288 is added to the Education Code, to read:

42288. Notwithstanding any other provision of law, for the 1985–86 fiscal year, prior to calculating the increase in funding amounts specified in Section 42287, the Superintendent of Public

Instruction shall increase the funding amounts specified in Sections 42281, 42282, and 42284 by the product of subdivisions (a) and (b):

(a) The amount per unit of average daily attendance received by the district pursuant to Section 46200 in the 1984–85 fiscal year.

(b) The average daily attendance for each necessary small school and necessary small high school for which the district receives funding in the 1985–86 fiscal year pursuant to Section 42281, 42282, or 42284, as appropriate.

SEC. 9. Section 42289 is added to the Education Code, to read:

42289. Notwithstanding any other provision of law, for the 1985–86 fiscal year and each fiscal year thereafter, prior to calculating the increase in funding amount specified in Section 42287, the Superintendent of Public Instruction shall increase the funding amounts specified in Sections 42281, 42282, and 42284, by the sum of subdivisions (a) and (b):

(a) Compute the product of paragraphs (1) and (2):

(1) The amount per unit of average daily attendance received by the district pursuant to Section 46201 in the prior fiscal year.

(2) The average daily attendance for each necessary small school and necessary small high school for which the district received funding in the prior fiscal year pursuant to Section 42281, 42282. or 42284, as appropriate.

(b) Compute the product of paragraphs (1) and (2):

(1) The amount per unit of average daily attendance received by the district pursuant to Section 45023.4 in the prior fiscal year.

(2) The average daily attendance computed pursuant to paragraph (2) of sudivision (a).

SEC. 10. Section 46145 of the Education Code is amended to read:

46145. Commencing with the first semester or quarter that begins after January 1, 1984, pupils in grade 12 shall be enrolled in at least five courses each semester or the equivalent number of courses per quarter. If any pupil in grade 12 is required by medical prescription to attend school for less than five courses during the semester or the equivalent number of courses during the quarter, the average daily attendance allowed for that pupil's attendance shall bear the same proportion to one day of attendance as the number of courses in which the pupil is enrolled bears to five or the equivalent number for the quarter system.

However, this requirement shall not apply to pupils enrolled in regional occupational programs, regional occupational centers, courses at accredited postsecondary educational institutions, independent study, special education programs where the pupil's individualized education program establishes a different number of courses, continuation education classes, work experience education programs approved under the provisions of Article 7 (commencing with Section 51760) of Chapter 5 of Part 28, or any other course of study authorized by the governing board which is equivalent to the approved high school course of study.

SEC. 11. Section 46201 of the Education Code is amended to read:

46201. (a) In each of the 1984–85, 1985–86, and 1986–87 fiscal years, for each school district which certifies to the Superintendent of Public Instruction that it offers at least the amount of instructional time specified in this subdivision at a grade level or levels, the Superintendent of Public Instruction shall determine an amount equal to twenty dollars ($20) per unit of current year second principal apportionment regular average daily attendance in kindergarten and grades 1 to 8, inclusive, and forty dollars ($40) per unit of current year second principal apportionment regular average daily attendance in grades 9 to 12, inclusive. This section shall not apply to adult average daily attendance, the average daily attendance for pupils attending summer school, alternative school, regional occupational centers and programs, continuation high schools, or opportunity schools, and the attendance of pupils while participating in community college or independent study programs.

(1) In the 1984–85 fiscal year, for kindergarten and each of grades 1 to 12, inclusive, the sum of subparagraphs (A) and (B):

(A) The number of instructional minutes offered at that grade level in the 1982–83 fiscal year.

(B) One-third of the difference between the number of minutes specified for that grade level in paragraph (3) and the number of instructional minutes offered at that grade level in the 1982–83 fiscal year.

(2) In the 1985–86 fiscal year, for kindergarten and each of grades 1 to 12, inclusive, the sum of subparagraphs (A) and (B):

(A) The number of instructional minutes offered at that grade level in the 1982–83 fiscal year.

(B) Two-thirds of the difference between the number of minutes specified for that grade level in paragraph (3) and the number of instructional minutes offered at that grade level in the 1982–83 fiscal year.

(3) In the 1986–87 fiscal year:

(A) Thirty-six thousand minutes in kindergarten.

(B) Fifty thousand four hundred minutes in grades 1 to 3, inclusive.

(C) Fifty-four thousand minutes in grades 4 to 8, inclusive.

(D) Sixty-four thousand eight hundred minutes in grades 9 to 12, inclusive.

(4) For any school site at which programs are operated in more than one of the grade levels enumerated in subparagraph (B) or (C) of paragraph (3), the school district may calculate a weighted average of minutes for those grade levels at that school site for purposes of making the certification authorized by this subdivision.

(b) If any of the amounts of instructional time specified in paragraph (3) of subdivision (a) is a lesser number of minutes for that grade level than actually provided by the district in the same grade in the 1982–83 fiscal year, the 1982–83 fiscal year number of minutes for that grade level shall instead be the requirement for the purposes of subdivision paragraphs (1), (2), and (3) of (a).

(c) For any school district which receives an apportionment pursuant to subdivision (a) in the 1984–85 fiscal year and which reduces the amount of instructional time offered below the minimum amounts specified in paragraph (1) of subdivision (a) in the 1985–86 fiscal year or any fiscal year thereafter, the Superintendent of Public Instruction shall reduce the base revenue limit per unit of average daily attendance for the fiscal year in which the reduction occurs by an amount attributable to the increase in the 1985–86 fiscal year base revenue limit per unit of average daily attendance pursuant to paragraph (4) of subdivision (b) of Section 42238, as adjusted in the 1985–86 fiscal year and fiscal years thereafter.

For each school district which receives an apportionment pursuant to subdivision (a) in the 1985–86 fiscal year and which reduces the amount of instructional time offered below the minimum amounts specified in paragraph (2) of subdivision (a) in the 1986–87 fiscal year or any fiscal year thereafter, the Superintendent of Public Instruction shall reduce the base revenue limit per unit of average daily attendance for the fiscal year in which the reduction occurs by an amount attributable to the increase in the 1986–87 fiscal year base revenue limit per unit of average daily attendance pursuant to paragraph (4) of subdivision (b) of Section 42238, as adjusted in the 1986–87 fiscal year and fiscal years thereafter.

For each school district which receives an apportionment pursuant to subdivision (a) in the 1986–87 fiscal year and which reduces the amount of instructional time offered below the minimum amounts specified in paragraph (3) of subdivision (a) in the 1987–88 fiscal year or any fiscal year thereafter, the Superintendent of Public Instruction shall reduce the base revenue limit per unit of average daily attendance for the fiscal year in which the reduction occurs by an amount attributable to the increase in the 1987–88 fiscal year base revenue limit per unit of average daily attendance pursuant to paragraph (4) of subdivision (b) of Section 42238, as adjusted in the 1987–88 fiscal year and fiscal years thereafter.

SEC. 11.5. Section 46201 of the Education Code is amended to read:

46201. (a) In each of the 1984–85, 1985–86, and 1986–87 fiscal years, for each school district which certifies to the Superintendent of Public Instruction that it offers at least the amount of instructional time specified in this subdivision at a grade level or levels, the Superintendent of Public Instruction shall determine an amount equal to twenty dollars ($20) per unit of current year second principal apportionment regular average daily attendance in kindergarten and grades 1 to 8, inclusive, and forty dollars ($40) per unit of current year second principal apportionment regular average daily attendance in grades 9 to 12, inclusive. This section shall not apply to adult average daily attendance, the average daily attendance for pupils attending summer school, alternative school, regional occupational centers and programs, continuation high

schools, or opportunity schools, and the attendance of pupils while participating in community college or independent study programs.

(1) In the 1984–85 fiscal year, for kindergarten and each of grades 1 to 12, inclusive, the sum of subparagraphs (A) and (B):

(A) The number of instructional minutes offered at that grade level in the 1982–83 fiscal year.

(B) One-third of the difference between the number of minutes specified for that grade level in paragraph (3) and the number of instructional minutes offered at that grade level in the 1982–83 fiscal year.

(2) In the 1985–86 fiscal year, for kindergarten and each of grades 1 to 12, inclusive, the sum of subparagraphs (A) and (B):

(A) The number of instructional minutes offered at that grade level in the 1982–83 fiscal year.

(B) Two-thirds of the difference between the number of minutes specified for that grade level in paragraph (3) and the number of instructional minutes offered at that grade level in the 1982–83 fiscal year.

(3) In the 1986–87 fiscal year:

(A) Thirty-six thousand minutes in kindergarten.

(B) Fifty thousand four hundred minutes in grades 1 to 3, inclusive.

(C) Fifty-four thousand minutes in grades 4 to 8, inclusive.

(D) Sixty-four thousand eight hundred minutes in no less than six class periods each day in grades 9 to 12, inclusive, except as otherwise provided in paragraph (4).

(4) If the school district demonstrates to the State Board of Education that its program for grades 9 to 12, inclusive, will offer to each student the equivalent of 24 course years of instruction, the board may, pursuant to Article 3 (commencing with Section 33050) of Chapter 1 of Part 20, waive the requirement of subparagraph (D) of paragraph (3) that the designated number of annual instructional minutes be provided in no less than six class periods each day in grades 9 to 12, inclusive. Nothing in this section is intended to require a school to adopt a class period format if it currently does not have that format, provided that it offers each student the equivalent of 24 course years of instruction for grades 9 to 12, inclusive.

(5) For any school site at which programs are operated in more than one of the grade levels enumerated in subparagraph (B) or (C) of paragraph (3), the school district may calculate a weighted average of minutes for those grade levels at that school site for purposes of making the certification authorized by this subdivision.

(b) If any of the amounts of instructional time specified in paragraph (3) of subdivision (a) is a lesser number of minutes for that grade level than actually provided by the district in the same grade in the 1982–83 fiscal year, the 1982–83 fiscal year number of minutes for that grade level shall instead be the requirement for the purposes of subdivision paragraphs (1), (2), and (3) of (a).

(c) For any school district which receives an apportionment

pursuant to subdivision (a) in the 1984–85 fiscal year and which reduces the amount of instructional time offered below the minimum amounts specified in paragraph (1) of subdivision (a) in the 1985–86 fiscal year or any fiscal year thereafter, the Superintendent of Public Instruction shall reduce the base revenue limit per unit of average daily attendance for the fiscal year in which the reduction occurs by an amount attributable to the increase in the 1985–86 fiscal year base revenue limit per unit of average daily attendance pursuant to paragraph (4) of subdivision (b) of Section 42238, as adjusted in the 1985–86 fiscal year and fiscal years thereafter.

For each school district which receives an apportionment pursuant to subdivision (a) in the 1985–86 fiscal year and which reduces the amount of instructional time offered below the minimum amounts specified in paragraph (2) of subdivision (a) in the 1986–87 fiscal year or any fiscal year thereafter, the Superintendent of Public Instruction shall reduce the base revenue limit per unit of average daily attendance for the fiscal year in which the reduction occurs by an amount attributable to the increase in the 1986–87 fiscal year base revenue limit per unit of average daily attendance pursuant to paragraph (4) of subdivision (b) of Section 42238, as adjusted in the 1986–87 fiscal year and fiscal years thereafter.

For each school district which receives an apportionment pursuant to subdivision (a) in the 1986–87 fiscal year and which reduces the amount of instructional time offered below the minimum amounts specified in paragraph (3) of subdivision (a) in the 1987–88 fiscal year or any fiscal year thereafter, the Superintendent of Public Instruction shall reduce the base revenue limit per unit of average daily attendance for the fiscal year in which the reduction occurs by an amount attributable to the increase in the 1987–88 fiscal year base revenue limit per unit of average daily attendance pursuant to paragraph (4) of subdivision (b) of Section 42238, as adjusted in the 1987–88 fiscal year and fiscal years thereafter.

As used in this section, "class period" means an amount of uninterrupted instructional time of not less than 45 minutes.

SEC. 12. Section 60242 of the Education Code is amended to read:

60242. After the application of Section 60241, the state board shall encumber the balance of the fund for the purpose of:

(a) Establishing credits and cash allotments as follows:

(1) The state board shall establish a credit for each district board with which instructional materials adopted by the state board may be ordered by districts which choose to order materials through the state.

(2) The state board shall establish a cash allotment in an amount determined by the state board for use in purchasing instructional materials from any source, or for the purchase of tests or in-service training pursuant to Sections 60224 and 60225.

The state board shall specify the percentage of a district board's credit authorized to be used for each of the above purposes.

(b) Establishing an allowance for each district board, which the district board may use for the following purposes:

(1) To purchase instructional materials adopted by the state board.

(2) To purchase instructional materials from any source.

(3) To purchase tests or in-service training pursuant to Sections 60224 and 60225.

The state board shall specify the percentage of a district board's allowance authorized to be used for each of the above purposes.

Allowances established for school districts pursuant to this section shall be apportioned to districts as part of the special purpose apportionment in accordance with paragraph (5) of subdivision (a) of Section 14041.

The Superintendent of Public Instruction may establish a date each fiscal year by which districts shall notify the State Department of Education if they wish to operate under a different subdivision during the next fiscal year.

(c) Obtaining instructional materials in subsequent fiscal years.

SEC. 13. Section 84700.5 is added to the Education Code, to read:

84700.5. For the 1986–87 fiscal year, the amount computed pursuant to Section 84700 shall be increased by the amount reported by the Teachers' Retirement Board for that community college district under Section 23400.3, divided by the district's second principal apportionment average daily attendance for the 1985–86 fiscal year.

SEC. 14. Section 11.5 of this bill incorporates amendments to Section 46201 of the Education Code proposed by both this bill and AB 1855. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 46201 of the Education Code, and (3) this bill is enacted after AB 1855, in which case Section 11 of this bill shall not become operative.

SEC. 15. 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 1598

An act to add Sections 1522.1 and 1596.877 to the Health and Safety Code, and to amend Sections 11166.5, 11167, 11167.5, 11169, 11170, and 11172 of, and to add Sections 11165.6, 11166.1, and 11166.2 to, the Penal Code, relating to child abuse, and making an appropriation therefor.

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

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

SECTION 1. Section 1522.1 is added to the Health and Safety Code, to read:

1522.1. Prior to granting a license to any individual to care for children, the department shall check the Child Abuse Registry pursuant to paragraph (3) of subdivision (b) of Section 11170 of the Penal Code. The department shall investigate any reports received from the Child Abuse Registry. The department shall not deny a license based upon a report from the Child Abuse Registry unless child abuse is substantiated.

SEC. 2. Section 1596.877 is added to the Health and Safety Code, to read:

1596.877. Prior to granting a license to any individual to care for children, the department shall check the Child Abuse Registry pursuant to paragraph (3) of subdivision (b) of Section 11170 of the Penal Code. The department shall investigate any reports received from the Child Abuse Registry. The department shall not deny a license based upon a report from the Child Abuse Registry unless child abuse is substantiated.

SEC. 3. Section 11165.6 is added to the Penal Code, to read:

11165.6. (a) As used in Section 11165, "abuse in out-of-home care" in addition to the persons or entities specified therein, includes day care providers.

(b) As used in Sections 11165 and 11166.5, "child care custodian," in addition to the persons specified therein, includes a licensee, an administrator, or an employee of any child day care facility licensed to care for children.

(c) In addition to the definitions set forth in Section 11165, as used in this article, the definition set forth below shall control the meaning of the following terms:

(1) "Licensing agency" means the State Department of Social Services office responsible for the licensing and enforcement of the California Community Care Facilities Act and the California Child Day Care Act, including Chapter 3.5 (commencing with Section 1596.90) of Division 2 of the Health and Safety Code, or the county licensing agency which has contracted with the state for performance of those duties.

(2) "Unfounded report" means a report which is determined by a child protective agency investigator to be false, to be inherently improbable, to involve an accidental injury, or not to constitute child abuse as defined in Section 11165.

SEC. 3.5. Section 11166.1 is added to the Penal Code, to read:

11166.1. Any supervisor or administrator who violates subdivision (f) of Section 11166 is guilty of a misdemeanor which is punishable by confinement in the county jail for a term not to exceed six months

or by a fine of not more than one thousand dollars ($1,000) or by both.

SEC. 4. Section 11166.2 is added to the Penal Code, to read:

11166.2. In addition to the reports required under Section 11166, a child protective agency shall immediately or as soon as practically possible report by telephone to the appropriate licensing agency every known or suspected instance of child abuse, except acts or omissions coming within the provisions of paragraph (2) of subdivision (c) of Section 11165, which shall only be reported to the county welfare department, when the instance of abuse occurs while the child is being cared for in a child day care facility, involves a child day care licensed staff person, or occurs while the child is under the supervision of a community care facility or involves a community care facility licensee or staff person. A child protective agency shall also send a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision.

SEC. 5. Section 11166.5 of the Penal Code is amended to read:

11166.5. 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 a 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; licensees, administrators, and employees of community care facilities or child day 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, or emergency medical technicians I or II, paramedics, or other persons certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code, or psychological assistants registered pursuant to Section 2913 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.

SEC. 5.1. 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 a 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; licensees, administrators, and employees of community care facilities or child day 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 or emergency medical technicians I or II, paramedics, or other persons certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code, or

psychological assistants registered pursuant to Section 2913 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.

SEC. 5.2. Section 11166.5 of the Penal Code is amended to read:

11166.5. Any person who enters into employment on and after January 1, 1985, as a child care custodian, health 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, health 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 a 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; licensees, administrators, and employees of community care facilities or child day 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.

"Health practitioner" includes physicians and surgeons, psychiatrists, psychologists, dentists, residents, interns, podiatrists, chiropractors, licensed nurses, dental hygienists, marriage, family, and child counselors, a person who is licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, emergency medical technicians I or II, paramedics, or other persons certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code, or psychological assistants registered pursuant to Section 2913 of the Business and Professions Code, a marriage, family, and child counselor trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code, or unlicensed marriage, family, and child counselor interns registered under Section 4980.44 of the Business and Professions Code, 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.

SEC. 5.3. 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, health 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, health practitioner, 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 a 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; licensees, administrators, and employees of community care facilities or child day 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.

"Health practitioner" includes physicians and surgeons, psychiatrists, psychologists, dentists, residents, interns, podiatrists, chiropractors, licensed nurses, dental hygienists, marriage, family, and child counselors, a person who is licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, emergency medical technicians I or II, paramedics, or other persons certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code, or psychological assistants registered pursuant to Section 2913 of the Business and Professions Code, a marriage, family, and child counselor trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code, or unlicensed marriage, family, and child counselor interns registered under Section 4980.44 of the Business and Professions Code, 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.

SEC. 6. Section 11167 of the Penal Code is amended to read:

11167. (a) A telephone report of a known or suspected instance of child abuse shall include the name of the person making the

report, the name of the child, the present location of the child, the nature and extent of the injury, and any other information, including information that led that person to suspect child abuse, requested by the child protective agency.

(b) Information relevant to the incident of child abuse may also be given to an investigator from a child protective agency who is investigating the known or suspected case of child abuse.

(c) The identity of all persons who report under this article shall be confidential and disclosed only between child protective agencies, or to counsel representing a child protective agency, or to the district attorney in a criminal prosecution or in an action initiated under Section 602 of the Welfare and Institutions Code arising from alleged child abuse, or to counsel appointed pursuant to Section 318 of the Welfare and Institutions Code, or to the county counsel or district attorney in an action initiated under Section 232 of the Civil Code or Section 300 of the Welfare and Institutions Code, or to a licensing agency when abuse in out-of-home care is reasonably suspected, or when those persons waive confidentiality, or by court order.

(d) Persons who may report pursuant to subdivision (d) of Section 11166 are not required to include their names.

SEC. 7. Section 11167.5 of the Penal Code is amended to read:

11167.5. (a) The reports required by Sections 11166 and 11166.2 shall be confidential and may be disclosed only as provided in subdivision (b). Any violation of the confidentiality provided by this article shall be a misdemeanor punishable by up to six months in jail or by a fine of five hundred dollars ($500) or by both.

(b) Reports of suspected child abuse and information contained therein may be disclosed only to the following:

(1) Persons or agencies to whom disclosure of the identity of the reporting party is permitted under Section 11167.

(2) Persons or agencies to whom disclosure of information is permitted under subdivision (b) of Section 11170.

(3) Persons or agencies with whom investigations of child abuse are coordinated under the regulations promulgated under Section 11174.

(4) Multidisciplinary personnel teams as defined in subdivision (d) of Section 18951 of the Welfare and Institutions Code.

(5) The State Department of Social Services, as specified in paragraph (3) of subdivision (b) of Section 11170, when an individual has applied for a community care license or child day care license, or for employment in an out-of-home care facility, or when a complaint alleges child abuse by an operator or employee of an out-of-home care facility.

(c) Nothing in this section shall be interpreted to require the Department of Justice to disclose information contained in records maintained under Section 11169 or under the regulations promulgated pursuant to Section 11174, except as otherwise provided in this article.

(d) This section shall not be interpreted to allow disclosure of any reports or records relevant to the reports of child abuse if the disclosure would be prohibited by any other provisions of state or federal law applicable to the reports or records relevant to the reports of child abuse.

SEC. 7.5. Section 11167.5 of the Penal Code is amended to read:

11167.5. (a) The reports required by Sections 11166 and 11166.2 shall be confidential and may be disclosed only as provided in subdivision (b). Any violation of the confidentiality provided by this article shall be a misdemeanor punishable by up to six months in jail or by a fine of five hundred dollars ($500) or by both.

(b) Reports of suspected child abuse and information contained therein may be disclosed only to the following:

(1) Persons or agencies to whom disclosure of the identity of the reporting party is permitted under Section 11167.

(2) Persons or agencies to whom disclosure of information is permitted under subdivision (b) of Section 11170.

(3) Persons or agencies with whom investigations of child abuse are coordinated under the regulations promulgated under Section 11174.

(4) Multidisciplinary personnel teams as defined in subdivision (d) of Section 18951 of the Welfare and Institutions Code.

(5) Persons or agencies responsible for the licensing of facilities which care for children, as specified in subdivision (h) of Section 11166.

(6) The State Department of Social Services, as specified in paragraph (3) of subdivision (b) of Section 11170, when an individual has applied for a community care license or child day care license, or for employment in an out-of-home care facility, or when a complaint alleges child abuse by an operator or employee of an out-of-home care facility.

(c) Nothing in this section shall be interpreted to require the Department of Justice to disclose information contained in records maintained under Section 11169 or under the regulations promulgated pursuant to Section 11174, except as otherwise provided in this article.

(d) This section shall not be interpreted to allow disclosure of any reports or records relevant to the reports of child abuse if the disclosure would be prohibited by any other provisions of state or federal law applicable to the reports or records relevant to the reports of child abuse.

SEC. 8. Section 11169 of the Penal Code is amended to read:

11169. A child protective agency shall forward to the Department of Justice a report in writing of every case it investigates of known or suspected child abuse which is determined not to be unfounded, other than cases coming within the provisions of paragraph (2) of subdivision (c) of Section 11165. A child protective agency shall not forward a report to the Department of Justice unless it has conducted an active investigation and determined that the

report is not unfounded, as defined in subdivision (n) of Section 11165. If a report has previously been filed which subsequently proves to be unfounded, the Department of Justice shall be notified in writing of that fact and shall not retain the report. The report required by this section shall be in a form approved by the Department of Justice. A child protective agency receiving a written report from another child protective agency shall not send such report to the Department of Justice.

The immunity provisions of Section 11172 shall not apply to the submission of a report by a child protective agency pursuant to this section. However, nothing in this section shall be construed to alter or diminish any other immunity provisions of state or federal law.

SEC. 8. Section 11169 of the Penal Code is amended to read:

11169. A child protective agency shall forward to the Department of Justice a report in writing of every case it investigates of known or suspected child abuse which is determined not to be unfounded, other than cases coming within the provisions of paragraph (2) of subdivision (c) of Section 11165. A child protective agency shall not forward a report to the Department of Justice unless it has conducted an active investigation and determined that the report is not unfounded, as defined in subdivision (n) of Section 11165. If a report has previously been filed which subsequently proves to be unfounded, the Department of Justice shall be notified in writing of that fact and shall not retain the report. The report required by this section shall be in a form approved by the Department of Justice. A child protective agency receiving a written report from another child protective agency shall not send such report to the Department of Justice.

The immunity provisions of Section 11172 shall not apply to the submission of a report by a child protective agency pursuant to this section. However, nothing in this section shall be construed to alter or diminish any other immunity provisions of state or federal law.

SEC. 8.5. Section 11170 of the Penal Code is amended to read:

11170. (a) The Department of Justice shall maintain an index of all reports of child abuse submitted pursuant to Section 11169. The index shall be continually updated by the department and shall not contain any reports that are determined to be unfounded. The department may adopt rules governing recordkeeping and reporting pursuant to this article.

(b) (1) The Department of Justice shall immediately notify a child protective agency which submits a report pursuant to Section 11169, or a district attorney who requests notification, of any information maintained pursuant to subdivision (a) which is relevant to the known or suspected instance of child abuse reported by the agency. A child protective agency shall make that information available to the reporting medical practitioner, child custodian, guardian ad litem appointed under Section 326, or counsel appointed under Section 318 of the Welfare and Institutions Code, or the appropriate licensing agency, if he or she is treating or investigating

a case of known or suspected child abuse.

(2) When a report is made pursuant to subdivision (a) of Section 11166, the investigating agency shall, upon completion of the investigation or after there has been a final disposition in the matter, inform the person required to report of the results of the investigation and of any action the agency is taking with regard to the child or family.

(3) The department shall make available to the State Department of Social Services any information received subsequent to January 1, 1981, pursuant to this section concerning any person who is an applicant for licensure or employment in a position having supervisorial or disciplinary power over a child or children, or who will provide 24-hour care for a child or children in a residential home or facility, pursuant to Section 1522.1 or 1596.876 of the Health and Safety Code, or Section 226 of the Civil Code. If the department has information which has been received subsequent to January 1, 1981, concerning such a person, it shall also make available to the State Department of Social Services any other information maintained pursuant to subdivision (a).

SEC. 8.5. Section 11170 of the Penal Code is amended to read:

11170. (a) The Department of Justice shall maintain an index of all preliminary reports of child abuse submitted pursuant to Section 11169. The index shall be continually updated by the department and shall not contain any reports that are determined to be unfounded. The department shall contact a child protective agency which submits a preliminary report after 60 days to verify that the report was not determined unfounded and shall not retain the report unless the verification is received within 30 days thereafter. The department may adopt rules governing recordkeeping and reporting pursuant to this article.

(b) (1) The Department of Justice shall immediately notify a child protective agency which submits a report pursuant to Section 11169, or a district attorney who requests notification, of any information maintained pursuant to subdivision (a) which is relevant to the known or suspected instance of child abuse reported by the agency. A child protective agency shall make that information available to the reporting health practitioner, child custodian, guardian ad litem appointed under Section 326, or counsel appointed under Section 318 of the Welfare and Institutions Code, or the appropriate licensing agency, if he or she is treating or investigating a case of known or suspected child abuse.

(2) When a report is made pursuant to subdivision (a) of Section 11166, the investigating agency shall, upon completion of the investigation or after there has been a final disposition in the matter, inform the person required to report of the results of the investigation and of any action the agency is taking with regard to the child or family.

(3) The department shall make available to the State Department of Social Services any information received subsequent to January 1,

1981, pursuant to this section concerning any person who is an applicant for licensure or employment in a position having supervisorial or disciplinary power over a child or children, or who will provide 24-hour care for a child or children in a residential home or facility, pursuant to Section 1522.1 or 1596.876 of the Health and Safety Code, or Section 226 of the Civil Code. If the department has information which has been received subsequent to January 1, 1981, concerning such a person, it shall also make available to the State Department of Social Services any other information maintained pursuant to subdivision (a).

SEC. 9. Section 11172 of the Penal Code is amended to read:

11172. (a) No child care custodian, medical practitioner, nonmedical practitioner, employee of a child protective agency, or commercial film and photographic print processor who reports a known or suspected instance of child abuse shall be civilly or criminally liable for any report required or authorized by this article. Any other person reporting a known or suspected instance of child abuse shall not incur civil or criminal liability as a result of any report authorized by this article unless it can be proven that a false report was made and the person knew that the report was false. No person required to make a report pursuant to this article, nor any person taking photographs at his or her direction, shall incur any civil or criminal liability for taking photographs of a suspected victim of child abuse, or causing photographs to be taken of a suspected victim of child abuse, without parental consent, or for disseminating the photographs with the reports required by this article. However, the provisions of this section shall not be construed to grant immunity from this liability with respect to any other use of the photographs.

(b) Any child care custodian, medical practitioner, nonmedical practitioner, or employee of a child protective agency who, pursuant to a request from a child protective agency, provides the requesting agency with access to the victim of a known or suspected instance of child abuse shall not incur civil or criminal liability as a result of providing that access.

(c) The Legislature finds that even though it has provided immunity from liability to persons required to report child abuse, that immunity does not eliminate the possibility that actions may be brought against those persons based upon required reports of child abuse. In order to further limit the financial hardship that those persons may incur as a result of fulfilling their legal responsibilities, it is necessary that they not be unfairly burdened by legal fees incurred in defending those actions. Therefore, a child care custodian, medical practitioner, nonmedical practitioner, an employee of a child protective agency, or commercial film and photographic print processor may present a claim to the State Board of Control for reasonable attorneys' fees incurred in any action against that person on the basis of making a report required or authorized by this article if the court has dismissed the action upon a demurrer or motion for summary judgment made by that person,

or if he or she prevails in the action. The State Board of Control shall allow that claim if the requirements of this subdivision are met, and the claim shall be paid from an appropriation to be made for that purpose. Attorneys' fees awarded pursuant to this section shall not exceed an hourly rate greater than the rate charged by the Attorney General of the State of California at the time the award is made and shall not exceed an hourly rate greater than the rate charged by the Attorney General of the State of California at the time the award is made and shall not exceed an aggregate amount of fifty thousand dollars ($50,000).

This subdivision shall not apply if a public entity has provided for the defense of the action pursuant to Section 995 of the Government Code.

(d) A court may award attorney's fees to a commercial film and photographic print processor when a suit is brought against the processor because of a disclosure mandated by this article and the court finds this suit to be frivolous.

(e) Any person who fails to report an instance of child abuse which he or she knows to exist or reasonably should know to exist, as required by this article, is guilty of a misdemeanor and is punishable by confinement in the county jail for a term not to exceed six months or by a fine of not more than one thousand dollars ($1,000) or by both.

SEC. 10. Section 11172 of the Penal Code is amended to read:

11172. (a) No child care custodian, health practitioner, or employee of a child protective agency, or commercial film and photographic print processor who reports a known or suspected instance of child abuse shall be civilly or criminally liable for any report required or authorized by this article. Any other person reporting a known or suspected instance of child abuse shall not incur civil or criminal liability as a result of any report authorized by this article unless it can be proven that a false report was made and the person knew that the report was false. No person required to make a report pursuant to this article, nor any person taking photographs at his or her direction, shall incur any civil or criminal liability for taking photographs of a suspected victim of child abuse, or causing photographs to be taken of a suspected victim of child abuse, without parental consent, or for disseminating the photographs with the reports required by this article. However, the provisions of this section shall not be construed to grant immunity from this liability with respect to any other use of the photographs.

(b) Any child care custodian, health practitioner, nonmedical practitioner, or employee of a child protective agency who, pursuant to a request from a child protective agency, provides the requesting agency with access to the victim of a known or suspected instance of child abuse shall not incur civil or criminal liability as a result of providing that access.

(c) The Legislature finds that even though it has provided immunity from liability to persons required to report child abuse,

that immunity does not eliminate the possibility that actions may be brought against those persons based upon required reports of child abuse. In order to further limit the financial hardship that those persons may incur as a result of fulfilling their legal responsibilities, it is necessary that they not be unfairly burdened by legal fees incurred in defending those actions. Therefore, a child care custodian, health practitioner, an employee of a child protective agency, or commercial film and photographic print processor may present a claim to the State Board of Control for reasonable attorneys' fees incurred in any action against that person on the basis of making a report required or authorized by this article if the court has dismissed the action upon a demurrer or motion for summary judgment made by that person, or if he or she prevails in the action. The State Board of Control shall allow that claim if the requirements of this subdivision are met, and the claim shall be paid from an appropriation to be made for that purpose. Attorneys' fees awarded pursuant to this section shall not exceed an hourly rate greater than the rate charged by the Attorney General of the State of California at the time the award is made and shall not exceed an hourly rate greater than the rate charged by the Attorney General of the State of California at the time the award is made and shall not exceed an aggregate amount of fifty thousand dollars ($50,000).

This subdivision shall not apply if a public entity has provided for the defense of the action pursuant to Section 995 of the Government Code.

(d) A court may award attorney's fees to a commercial film and photographic print processor when a suit is brought against the processor because of a disclosure mandated by this article and the court finds this suit to be frivolous.

(e) Any person who fails to report an instance of child abuse which he or she knows to exist or reasonably should know to exist, as required by this article, is guilty of a misdemeanor and is punishable by confinement in the county jail for a term not to exceed six months or by a fine of not more than one thousand dollars ($1,000) or by both.

SEC. 11. (a) Section 5.1 of this bill incorporates amendments to Section 11166.5 of the Penal Code proposed by both this bill and SB 254. It shall only become operative if (1) both bills are enacted and become effective January 1, 1986, (2) each bill amends Section 11166.5 of the Penal Code, and (3) SB 1358 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 254, in which case Sections 5, 5.2, and 5.3 of this bill shall not become operative.

(b) Section 5.2 of this bill incorporates amendments to Section 11166.5 of the Penal Code proposed by both this bill and SB 1358. 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 11166.5 of the Penal Code, (3) SB 254 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 1358

in which case Section 11166.5 of the Penal Code, as amended by SB 1358 shall remain operative only until the operative date of this bill at which time Section 5.2 of this bill shall become operative and Sections 5, 5.1, and 5.3 of this bill shall not become operative.

(c) Section 5.3 of this bill incorporates amendments to Section 11166.5 of the Penal Code proposed by this bill, SB 254, and SB 1358. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1986, (2) all three bills amend Section 11166.5 of the Penal Code, and (3) this bill is enacted after SB 254 and SB 1358, in which case Section 11166.5 of the Penal Code, as amended by SB 1358 shall remain operative only until the operative date of this bill at which time Section 5.3 of this bill shall become operative and Sections 5.1, and 5.2 of this bill shall not become operative.

SEC. 12. Section 7.5 of this bill incorporates amendments to Section 11167.5 of the Penal Code proposed by both this bill and AB 2337. 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 11167 5 of the Penal Code, and (3) this bill is enacted after AB 2337, in which case Section 11167.5 of the Penal Code, as amended by AB 2337, shall remain operative only until the operative date of this bill, at which time Section 7.5 of this bill shall become operative, and Section 7 of this bill shall not become operative.

SEC. 13. Section 8.5 of this bill incorporates amendments to Section 11170 of the Penal Code proposed by both this bill and SB 1358. 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 11170 of the Penal Code, and (3) this bill is enacted after SB 1358, in which case Section 11170 of the Penal Code, as amended by SB 1358, shall remain operative only until the operative date of this bill, at which time Section 8.5 of this bill shall become operative, and Section 8 of this bill shall not become operative.

SEC. 14. Section 10 of this bill incorporates amendments to Section 11172 of the Penal Code proposed by both this bill and SB 1358. 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 11172 of the Penal Code, and (3) this bill is enacted after SB 1358, in which case Section 11172 of the Penal Code, as amended by SB 1358, shall remain operative only until the operative date of this bill, at which time Section 10 of this bill shall become operative, and Section 9 of this bill shall not become operative.

SEC. 15. No appropriation is made by this act pursuant to Section 6 of Article XIII B of the California Constitution because the amendments made to the Penal Code by this act, in part, create a new crime or infration, change the definition of a crime or infraction, change the penalty for a crime or infraction, or eliminate a crime or infraction. However, reimbursement to local agencies and school districts for costs mandated by the state pursuant to the other provisions of this act which do not create a new crime or infraction,

change the definition of a crime or infraction, or change the penalty for a crime or infraction, shall be made pursuant to Part 7 (commencing with Section 17550) 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. 16. The sum of one hundred thirty-seven thousand five hundred dollars ($137,500) is hereby appropriated from the General Fund for the 1985–86 fiscal year for the purposes of this act, to be allocated as follows:

(1) Sixty-two thousand five hundred dollars ($62,500) to the Department of Justice.

(2) Seventy-five thousand dollars ($75,000) to the State Department of Social Services.

CHAPTER 1599

An act to amend Sections 56000, 56016, 56036, 56054, 56375, 56426, 56700, 56705, 56753, 56833, 56841, 56850, 57003, 57026, 57083, 57203, 57325, and 60353 of, and to amend the heading of Division 3 (commencing with Section 56000) of Title 5 and the heading of Part 3 (commencing with Section 56650) of Division 3 of Title 5 of, and to add Sections 56111.5, 56376.5, 56650.5, 56700.5, 56848.5, 57075.5, 57083.5, and 65040.9 to, the Government Code, and to amend Section 26571 of the Public Resources Code, relating to government.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. The heading of Division 3 (commencing with Section 56000) of Title 5 of the Government Code, as added by Chapter 541 of the Statutes of 1985, is amended to read:

DIVISION 3. CORTESE-KNOX LOCAL GOVERNMENT REORGANIZATION ACT OF 1985

SEC. 1.3. Section 56000 of the Government Code, as added by Chapter 541 of the Statutes of 1985, is amended to read:

56000. This division shall be known and may be cited as the Cortese-Knox Local Government Reorganization Act of 1985.

SEC. 1.7. Section 56016 of the Government Code, as added by Chapter 541 of the Statutes of 1985, is amended to read:

56016. "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. 2. Section 56036 of the Government Code, as added by Chapter 541 of the Statutes of 1985, is amended to read:

56036. (a) "District" or "special 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" or "special district" includes a county service area, but excludes all of the following:

(1) The state.

(2) A county.

(3) A city.

(4) A school district or a community college district.

(5) A special assessment district.

(6) An improvement district.

(7) A community facilities district formed pursuant to the Mello-Roos Community Facilities Act of 1982, Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5.

(b) Except as otherwise provided in paragraph (1), each of the entities listed in paragraph (1) is a "district" or a "special district" for the purposes of this division.

(1) For the purposes of Chapter 1 (commencing with Section 57000) to Chapter 7 (commencing with Section 57175), inclusive, of Part 4 or Part 5 (commencing with Section 57300), none of the following entities is a "district" or a "special district":

(A) A unified or union high school library district.

(B) An air pollution control district or an air quality maintenance district.

(C) A bridge and highway district.

(D) A joint highway district.

(E) A transit or rapid transit district.

(F) A metropolitan water district.

(G) 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.

(2) Any conducting authority proceedings for a change of organization involving an entity described in paragraph (1) shall be conducted pursuant to the principal act authorizing the establishment of that entity.

(c) Except as otherwise provided in paragraph (1), each of the entities listed in paragraph (1) is a "district" or "special district" for purposes of this division.

(1) For the purposes of Chapter 1 (commencing with Section 57000) to Chapter 7 (commencing with Section 57175), inclusive, of Part 4 or Part 5 (commencing with Section 57300), none of the following entities is a "district" or "special district" if the commission of the principal county determines, in accordance with Sections 56127 and 56128, that the entity is not a "district" or "special district."

(A) A flood control district.

(B) A flood control and floodwater conservation district.

(C) A flood control and water conservation district.

(D) A conservation district.
(E) A water conservation district.
(F) A water replenishment district.
(G) The Orange County Water District.
(H) A California water storage district.
(I) A water agency.
(J) A county water authority or a water authority.

(2) If the commission determines that an entity described in paragraph (1) is not a "district" or "special district," any conducting authority proceedings for a change of organization involving the entity shall be conducted pursuant to the principal act authorizing the establishment of that entity.

SEC. 3. Section 56054 of the Government Code, as added by Chapter 541 of the Statutes of 1985, is amended to read:

56054. "Local agency" means a city, county, or district.

SEC. 4. Section 56111.5 is added to the Government Code, to read:

56111.5. (a) Notwithstanding Section 56110, 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 Part 3 (commencing with Section 56650). 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 8 (commencing with Section 57200) of Part 4.

(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 applies only to the City of Willits.

SEC. 5. Section 56375 of the Government Code, as added by Chapter 541 of the Statutes of 1985, is amended to read:

56375. The commission shall have all of the following powers and duties subject to any limitations upon its jurisdiction set forth in this part:

(a) To review and approve or disapprove with or without amendment, wholly, partially, or conditionally, proposals for changes of organization or reorganization. However, a commission shall not have the power to disapprove an annexation to a city, initiated by resolution, of contiguous territory which the commission finds is either:

(1) Surrounded or substantially surrounded by the city to which the annexation is proposed or by that city and a county boundary or the Pacific Ocean if the territory to be annexed is substantially developed or developing, is not prime agricultural land as defined in Section 56064, is designated for urban growth by the general plan of the annexing city, and is not within the sphere of influence of another city.

(2) Located within an urban service area which has been delineated and adopted by a commission, which is not prime agricultural land, as defined by Section 56064, and is designated for urban growth by the general plan of the annexing city.

As a condition to the annexation of an area, which is surrounded, or substantially surrounded, by the city to which the annexation is proposed, the commission may require, where consistent with the purposes of this division, that the annexation include the entire island of surrounded, or substantially surrounded, territory.

A commission shall not impose any conditions which would directly regulate land use density or intensity, property development, or subdivision requirements. When the development purposes are not made known to the annexing city, the annexation shall be reviewed on the basis of the adopted plans and policies of the annexing city or county. This paragraph does not prohibit a commission from requiring, as a condition to annexation, that a city prezone the territory to be annexed. However, the commission shall not specify how, or in what manner, the territory shall be prezoned.

(b) With regard to a proposal for annexation or detachment of territory to, or from, a city or district or with regard to a proposal for reorganization which includes annexation or detachment, to determine whether territory proposed for annexation or detachment, as described in its resolution approving the annexation, detachment, or reorganization, is inhabited or uninhabited.

(c) With regard to a proposal for consolidation of two or more cities or districts, to determine which city or district shall be the consolidated, successor city or district.

(d) To approve the annexation to a city after notice and hearing, and authorize the conducting authority to order annexation of the territory without an election, if the commission finds that the territory contained in an annexation proposal meets all of the following requirements:

(1) It does not exceed 75 acres in area, that area constitutes the

entire island, and the island does not constitute a part of an unincorporated area which is more than 100 acres in area.

(2) It is surrounded in either of the following ways:

(A) Surrounded, or substantially surrounded, by the city to which annexation is proposed or by the city and a county boundary or the Pacific Ocean.

(B) Surrounded by the city to which annexation is proposed and adjacent cities.

(3) It is substantially developed or developing. The finding required by this subparagraph shall be based upon one or more factors, including, but not limited to, any of the following factors:

(i) The availability of public utility services.

(ii) The presence of public improvements.

(iii) The presence of physical improvements upon the parcel or parcels within the area.

(4) It is not prime agricultural land, as defined by Section 56064.

(5) It will benefit from the annexation or is receiving benefits from the annexing city.

(e) To approve the annexation of unincorporated, noncontiguous territory, subject to the limitations of Section 56111, located in the same county as that in which the city is located, and which is owned by a city and used for municipal purposes and to authorize the conducting authority to annex the territory without notice and hearing.

(f) Subject to Section 56029, to designate in the resolution making determinations the conducting authority for proceedings.

(g) When a change of organization or a reorganization includes the annexation of inhabited territory to a city and the assessed value of land within the territory equals one-half or more of the assessed value of land within the city, or the number of registered voters residing within the territory equals one-half or more of the number of registered voters residing within the city, to determine as a condition of the proposal that the change of organization or reorganization shall also be subject to confirmation by the voters in an election to be called, held, and conducted within the territory of the city to which annexation is proposed.

(h) With respect to the incorporation of a new city, to determine the number of registered voters residing within the proposed city.

(i) To adopt procedures for the evaluation of proposals. The commission may adopt standards for any of the factors enumerated in Section 56841.

(j) To adopt standards and procedures for the evaluation of service plans submitted pursuant to Section 56653.

(k) To make and enforce regulations for the orderly and fair conduct of hearings by the commission.

(*l*) To incur usual and necessary expenses for the accomplishment of its functions.

(m) To appoint and assign staff personnel and to employ or contract for professional or consulting services to carry out and effect

the functions of the commission.

(n) To review the boundaries of the territory involved in any proposal with respect to the definiteness and certainty of those boundaries, the nonconformance of proposed boundaries with lines of assessment or ownership, and other similar matters affecting the proposed boundaries.

(o) To waive the restrictions of Section 56109 if it finds that the application of the restrictions would be detrimental to the orderly development of the community and that the area that would be enclosed by the annexation or incorporation is so located that it cannot reasonably be annexed to another city or incorporated as a new city.

(p) To waive the application of Section 25210.90 if it finds the application would deprive an area of a service needed to ensure the health, safety, or welfare of the residents of the area and if it finds that the waiver would not affect the ability of a city to provide any service. However, within 60 days of the inclusion of the territory within the city, the legislative body may adopt a resolution nullifying the waiver.

(q) If the proposal includes the incorporation of a city, as defined in Section 56043, or the formation of a district, as defined in Section 2215 of the Revenue and Taxation Code, the commission shall determine the property tax revenue to be exchanged by the affected local agencies pursuant to Section 56842.

SEC. 6. Section 56376.5 is added to the Government Code, to read:

56376.5. (a) The commission shall not impose any condition on an annexing local agency with respect to the standards or frequency of maintenance of any existing street or road within the annexed territory.

(b) The commission shall not impose a condition which requires a local agency to improve an existing public facility which is not owned by the agency.

(c) This section shall not be construed as authorizing a commission to impose any conditions which it is not otherwise authorized to impose.

SEC. 7. Section 56426 of the Government Code, as added by Chapter 541 of the Statutes of 1985, is amended to read:

56426. (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 56377.5, 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 56828, 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 those preserves in the event that the agricultural 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. 8. The heading of Part 3 (commencing with Section 56650) of Division 3 of Title 5 of the Government Code, as added by Chapter 541 of the Statutes of 1985, is amended to read:

PART 3. COMMISSION PROCEEDINGS FOR A CHANGE OF ORGANIZATION OR REORGANIZATION

SEC. 9. Section 56650.5 is added to the Government Code, to read:

56650.5. If the proposal is for the annexation of inhabited territory to a city with over 100,000 residents which is located in a county with a population of over 4,000,000, no proceedings shall be initiated either by petition or by resolution of application unless the proposal

is consistent with the sphere of influence of any affected city or affected district.

SEC. 10. Section 56700 of the Government Code, as added by Chapter 541 of the Statutes of 1985, is amended to read:

56700. A proposal for a change of organization or a reorganization may be made by petition. The petition shall do all of the following:

(a) State that the proposal is made pursuant to this part.

(b) State the nature of the proposal and list all proposed changes of organization.

(c) Set forth a description of the boundaries of affected territory accompanied by a map showing the boundaries.

(d) Set forth any proposed terms and conditions.

(e) State the reason or reasons for the proposal.

(f) State whether the petition is signed by registered voters or owners of land.

(g) Designate not to exceed three persons as chief petitioners, setting forth their names and mailing addresses.

(h) Request that proceedings be taken for the proposal pursuant to this part.

(i) State whether the proposal is consistent with the sphere of influence of any affected city or affected district.

SEC. 11. Section 56700.5 is added to the Government Code, to read:

56700.5. (a) Before circulating any petition for change of organization for a city, the proponents shall publish a notice of intention which shall include a written statement not to exceed 500 words in length, setting forth the reasons for the proposal. The notice shall be published pursuant to Section 56153. The notice shall be signed by at least one, but not more than three, chief petitioners and shall be in substantially the following form:

Notice of Intent to Circulate Petition

Notice is hereby given of the intention to circulate a petition proposing to _____ territory to the City of _____. The reasons for the proposal are:

(b) Within five days after the date of publication, the chief petitioners shall file with the clerk of the city and the executive officer a copy of the notice together with an affidavit made by a representative of the newspaper in which the notice was published certifying to the fact of publication.

(c) After the filing required pursuant to subdivision (b), the petition may be circulated for signatures.

SEC. 12. Section 56705 of the Government Code, as added by Chapter 541 of the Statutes of 1985, is amended to read:

56705. (a) Except as otherwise provided in subdivision (b), no petition shall be accepted for filing unless the signatures on the petition are secured within six months of the date on which the first signature on the petition was affixed and the petition is submitted to

the executive officer for filing within 60 days after the last signature is affixed. If the elapsed time between the date on which the last signature is affixed and the date on which the petition is submitted for filing is more than 60 days, the executive officer shall file the petition in accordance with Section 56709.

(b) Notwithstanding subdivision (a), in cities with a population of more than 100,000 residents which are located in a county with a population of over 4,000,000, no petition shall be accepted for filing unless the signatures thereon have been secured within 90 days of the publication of the notice required pursuant to Section 56700.5 and the petition is submitted to the executive officer for filing within 60 days after the last signature is affixed. If the elapsed time between the date on which the last signature is affixed and the date on which the petition is submitted for filing is more than 60 days, the executive officer shall file the petition in accordance with Section 56709.

SEC. 13. Section 56753 of the Government Code, as added by Chapter 541 of the Statutes of 1985, is amended to read:

56753. (a) Except as otherwise provided in subdivision (b), a petition for annexation of territory to a city shall be signed by either of the following:

(1) Not less than 5 percent of the number of registered voters residing within the territory proposed to be annexed as shown on the county register of voters.

(2) Not less than 5 percent of the number of owners of land within the territory proposed to be annexed who also own 5 percent of the assessed value of land within the territory as shown on the last equalized assessment roll.

(b) Notwithstanding subdivision (a), a petition for the annexation of territory to a city with more than 100,000 residents which is located in a county with a population of over 4,000,000, shall be signed by either of the following:

(1) Not less than 8 percent of the number of registered voters residing within the territory proposed to be annexed as shown on the county register of voters.

(2) Not less than 8 percent of the number of owners of land within the territory proposed to be annexed who also own 8 percent of the assessed value of land within the territory as shown on the last equalized assessment roll.

SEC. 14. Section 56833 of the Government Code, as added by Chapter 541 of the Statutes of 1985, is amended to read:

56833. The executive officer shall review each application which is filed with the executive officer and shall prepare a report, including his or her recommendations, on the application. 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.

SEC. 16. Section 56841 of the Government Code, as added by Chapter 541 of the Statutes of 1985, is amended to read:

56841. Factors to be considered in the review of a proposal shall include, but not be limited to, all of the following:

(a) Population, population density; land area and land use; per capita assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next 10 years.

(b) Need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas.

"Services," as used in this subdivision, refers to governmental services whether or not the services are services which would be provided by local agencies subject to this division, and includes the public facilities necessary to provide those services.

(c) The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county.

(d) The conformity of both the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities set forth in Section 56377.

(e) The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by Section 56016.

(f) The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.

(g) Consistency with city or county general and specific plans.

(h) The sphere of influence of any local agency which may be applicable to the proposal being reviewed.

(i) The comments of any affected local agency.

(j) In the case of the annexation of developed property to a city, whether existing public facilities were constructed to standards which were less stringent than the standards of the annexing city at the time that the facilities were constructed, and whether conditions may be imposed on the annexation which would enable those facilities to be constructed to the city's current standards.

(k) The impact of the proposal on the liability exposure of

affected local agencies in inverse condemnation.

SEC. 17. Section 56848.5 is added to the Government Code, to read:

56848.5. If the proposal includes the annexation of inhabited territory to a city with over 100,000 residents which is located in a county with a population of over 4,000,000, no proceedings shall be initiated either by petition or by application of a legislative body unless the proposal is consistent with the sphere of influence of any affected city or affected district.

SEC. 18. Section 56850 of the Government Code, as added by Chapter 541 of the Statutes of 1985, is amended to read:

56850. In any order approving a proposal for an annexation or a reorganization which includes annexation of inhabited territory to a city when the assessed value of land within that territory proposed to be annexed equals one-half, or more, of that within the city, as shown by the last equalized assessment rolls, or the number of registered voters of the territory equals one-half, or more, of the number of registered voters within the city, as shown by the county register of voters, the commission shall require that an election called upon the question of confirming the annexation or reorganization shall also be called, held, and conducted within the territory of the city to which territory is proposed to be annexed.

SEC. 19. Section 57003 of the Government Code, as added by Chapter 541 of the Statutes of 1985, is amended to read:

57003. Once notice is given by the clerk of the conducting authority pursuant to this chapter, jurisdiction over the proceedings is acquired by the legislative body of the conducting authority, and until those proceedings are completed or terminated pursuant to this part, no conflicting petition or resolution of application seeking the change of organization or reorganization of all or part of the territory described by the notice given by the clerk shall be filed with, or acted on, by the commission.

SEC. 20. Section 57026 of the Government Code, as added by Chapter 541 of the Statutes of 1985, is amended to read:

57026. The mailed notice required to be given by Section 57025 shall contain all of the following information:

(a) A statement of the distinctive short form designation assigned by the commission to the proposal.

(b) A statement of the manner in which, and by whom, proceedings were initiated. However, a reference to the chief petitioners, if any, shall be sufficient where proceedings were initiated by a petition.

(c) A description of the exterior boundaries of the subject territory.

(d) A description of the particular change or changes of organization proposed for each of the subject districts or cities and new districts or new cities proposed to be formed, and any terms and conditions to be applicable. The description may include a reference to the commission's resolution making determinations for a full and

complete description of the change of organization or reorganization, and the terms and conditions.

(e) A statement of the reason or reasons for the change of organization or reorganization as set forth in the proposal submitted to the commission.

(f) A statement of the time, date, and place of the hearing on the proposed change of organization or reorganization.

(g) If the subject territory is inhabited and the change of organization or reorganization provides for the submission of written protests, a statement that any owner of land within the territory, or any registered voter residing within the territory, may file a written protest against the proposal with the clerk of the conducting authority at any time prior to the time specified for commencement of the hearing by the conducting authority on the proposal.

(h) If the subject territory is uninhabited and the change of organization or reorganization provides for submission of written protests, a statement that any owner of land within the territory may file a written protest against the proposal with the clerk of the conducting authority at any time prior to the time specified for commencement of the hearing by the conducting authority on the proposal.

SEC. 21. Section 57026 of the Government Code, as added by Chapter 541 of the Statutes of 1985, is amended to read:

57026. The mailed notice required to be given by Section 57025 shall contain all of the following information:

(a) A statement of the distinctive short form designation assigned by the commission to the proposal.

(b) A statement of the manner in which, and by whom, proceedings were initiated. However, a reference to the chief petitioners, if any, shall be sufficient where proceedings were initiated by a petition.

(c) A description of the exterior boundaries of the subject territory.

(d) A description of the particular change or changes of organization proposed for each of the subject districts or cities and new districts or new cities proposed to be formed, and any terms and conditions to be applicable. The description may include a reference to the commission's resolution making determinations for a full and complete description of the change of organization or reorganization, and the terms and conditions.

(e) A statement of the reason or reasons for the change of organization or reorganization as set forth in the proposal submitted to the commission.

(f) (1) Except as otherwise provided in paragraph (2), a statement of the time, date, and place of the hearing on the proposed change of organization or reorganization.

(2) Notwithstanding paragraph (1), if inhabited territory is proposed to be annexed to a city with more than 100,000 residents which is located in a county with a population of over 4,000,000 the

date shall be at least 90 but not more than 105 days after the date of adoption of the resolution initiating the proceedings. The resolution shall specify a date 90 days prior to the hearing when registered voters may begin to file protests.

(g) If the subject territory is inhabited and the change of organization or reorganization provides for the submission of written protests, a statement that any owner of land within the territory, or any registered voter residing within the territory, may file a written protest against the proposal with the clerk of the conducting authority at any time prior to the time specified for commencement of the hearing by the conducting authority on the proposal.

(h) If the subject territory is uninhabited and the change of organization or reorganization provides for submission of written protests, a statement that any owner of land within the territory may file a written protest against the proposal with the clerk of the conducting authority at any time prior to the time specified for commencement of the hearing by the conducting authority on the proposal.

SEC. 22. Section 57075.5 is added to the Government Code, to read:

57075.5. Notwithstanding Section 57075, if territory proposed to be annexed to a city with more than 100,000 residents is inhabited and is located in a county with a population of over 4,000,000, the conducting authority, not more than 30 days after conclusion of the hearing, shall adopt a resolution making a finding regarding the value of written protests filed and not withdrawn and take one of the following actions:

(a) Terminate proceedings if written protests have been filed and not withdrawn by 50 percent or more of the registered voters within the affected territory.

(b) Order the territory annexed subject to the confirmation by the voters on the question, and call a special election and submit to the voters residing within the affected territory the question of whether it shall be annexed to the city, if written protests have been filed and not withdrawn by either 15 percent or more of the registered voters within the territory, or 15 percent or more of the number of owners of land who also won not less than 15 percent of the total assessed value of land within the territory.

(c) Order the territory annexed without an election if written protests have been filed and not withdrawn by less than 15 percent of the registered voters within the territory and less than 15 percent of the owners of land who own less than 15 percent of the total assessed value of land within the territory.

SEC. 23. Section 57083 of the Government Code, as added by Chapter 541 of the Statutes of 1985, is amended to read:

57083. (a) In any resolution ordering a dissolution, the conducting authority shall make findings upon one or more of the following matters:

(1) That the corporate powers have not been used, as specified in

Section 56759, and that there is a reasonable probability that those powers will not be used in the future.

(2) That the district is a registered-voter district and is uninhabited.

(3) That the board of directors of the district has, by unanimous resolution, consented to the dissolution of the district.

(b) If the conducting authority makes any of the findings specified in subdivision (a), the conducting authority may, except as otherwise provided in Section 57083.5, order the dissolution of the district without election.

SEC. 24. Section 57083.5 is added to the Government Code, to read:

57083.5. Any order in any resolution adopted by the conducting authority 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. 25. Section 57203 of the Government Code, as added by Chapter 541 of the Statutes of 1985, is amended to read:

57203. The executive officer shall record a certified copy of the certificate of completion with the county recorder of each county in which all or any part of the territory included in the change of organization or reorganization is located, and shall file a certified copy of the certificate of completion, indicating the recording numbers affixed by the county recorder, with the clerk of the legislative body of each local agency subject to the change of organization or reorganization.

After recordation of the certificate of completion by the executive officer, the recorder shall file with the county surveyor a copy of the boundary description included in the certificate of completion as provided by subdivision (c) of Section 57201.

SEC. 26. Section 57325 of the Government Code, as added by Chapter 541 of the Statutes of 1985, is amended to read:

57325. On and after the effective date of an annexation, the territory annexed to a city or district, all inhabitants of that territory, and all persons entitled to vote by reason of residing or owning land within that territory shall be subject to the jurisdiction of the city or district and, except as otherwise provided in this chapter, shall have the same rights and duties as if the territory had been a part of the city or district upon its original incorporation or formation.

SEC. 27. Section 60353 of the Government Code is amended to read:

60353. The board of supervisors in a participating county may make loans to districts, as defined by Section 56036, which apply pursuant to this chapter to pay for the costs of any of the following:

(a) Studies to determine the feasibility of reducing the costs of districts through consolidation, merger, or reorganization.

(b) Any fees charged pursuant to Sections 56383 and 56654 needed to carry out the results of the studies conducted pursuant to

subdivision (a).

(c) Any expenses incurred pursuant to Sections 56843 and 56844 needed to carry out the results of studies conducted pursuant to subdivision (a).

SEC. 28. Section 65040.9 is added to the Government Code to read:

65040.9. The Office of Permit Assistance created in the Office of Planning and Research pursuant to Section 65922.3 shall perform the duties required by Sections 65922.3 to 65923.5, inclusive.

SEC. 29. Section 26571 of the Public Resources Code is amended to read:

26571. A district is comprised of an area specially benefited by and subject to special assessment to pay the cost of an improvement. While a district performs certain governmental and proprietary functions as a political subdivision of the state, it is not a special district within the meaning of Section 56036 of the Government Code.

SEC. 30. Section 5 of this act shall become operative only if Assembly Bill 2128 of the 1985–86 Regular Session of the Legislature is enacted and becomes effective on or before January 1, 1986. In that case Section 5 of this act shall become operative on January 1, 1986, and Section 54790 of the Government Code, as amended by Sections 1 and 2 of Assembly Bill 2128 shall not become operative.

SEC. 31. Section 6 of this act shall become operative only if Assembly Bill 2128 of the 1985–86 Regular Session of the Legislature is enacted and becomes effective on or before January 1, 1986. In that case Section 6 of this act shall become operative on January 1, 1986, and Section 54790.6 of the Government Code, as added by Section 3 of Assembly Bill 2128 shall not become operative.

SEC. 32. Section 9 of this act shall become operative only if Senate Bill 603 of the 1985–86 Regular Session of the Legislature is enacted and becomes effective on or before January 1, 1986. In that case Section 9 of this act shall become operative on January 1, 1986, and Section 35100.5 of the Government Code, as added by Section 2 of Senate Bill 603 shall not become operative.

SEC. 33. Section 10 of this act shall become operative only if Senate Bill 603 of the 1985–86 Regular Session of the Legislature is enacted and becomes effective on or before January 1, 1986. In that case Section 10 of this act shall become operative on January 1, 1986, and Sections 35110 and 56140 of the Government Code, as amended by Sections 3 and 10, respectively, of Senate Bill 603 shall not become operative.

SEC. 34. Section 11 of this act shall become operative only if Senate Bill 603 of the 1985–86 Regular Session of the Legislature is enacted and becomes effective on or before January 1, 1986. In that case Section 11 of this act shall become operative on January 1, 1986, and Section 35110.5 of the Government Code, as added by Section 4 of Senate Bill 603 shall not become operative.

SEC. 35. Section 12 of this act shall become operative only if

Senate Bill 603 of the 1985–86 Regular Session of the Legislature is enacted and becomes effective on or before January 1, 1986. In that case Section 12 of this act shall become operative on January 1, 1986, and Section 35116 of the Government Code, as amended by Section 5 of Senate Bill 603 shall not become operative.

SEC. 36. Section 13 of this act shall become operative only if Senate Bill 603 of the 1985–86 Regular Session of the Legislature is enacted and becomes effective on or before January 1, 1986. In that case Section 13 of this act shall become operative on January 1, 1986, and Section 35133 of the Government Code, as amended by Section 6 of Senate Bill 603 shall not become operative.

SEC. 37. Section 16 of this act shall become operative only if Assembly Bill 164 of the 1985–86 Regular Session of the Legislature is enacted and becomes effective on or before January 1, 1986. In that case Section 16 of this act shall become operative on January 1, 1986, and Section 54796 of the Government Code, as amended by Section 1 of Assembly Bill 164 shall not become operative.

SEC. 38. Section 17 of this act shall become operative only if Senate Bill 603 of the 1985–86 Regular Session of the Legislature is enacted and becomes effective on or before January 1, 1986. In that case Section 17 of this act shall become operative on January 1, 1986, and Section 56130.5 of the Government Code, as added by Section 9 of Senate Bill 603 shall not become operative.

SEC. 39. Section 20 of this act shall become operative only if Senate Bill 603 of the 1985–86 Regular Session of the Legislature is not chaptered on or before January 1, 1986. In that case Section 20 of this act shall become operative on January 1, 1986, and Section 21 shall not become operative.

SEC. 40. Section 21 of this act shall become operative only if Senate Bill 603 of the 1985–86 Regular Session of the Legislature is enacted and becomes effective on or before January 1, 1986. In that case Section 21 of this act shall become operative on January 1, 1986, and neither Section 35220 of the Government Code, as amended by Section 7 of Senate Bill 603 nor Section 20 of this act shall become operative.

SEC. 41. Section 22 of this act shall become operative only if Senate Bill 603 of the 1985–86 Regular Session of the Legislature is enacted and becomes effective on or before January 1, 1986. In that case Section 22 of this act shall become operative on January 1, 1986, and Section 35228.5 of the Government Code, as added by Section 8 of Senate Bill 603 shall not become operative.

CHAPTER 1600

An act to repeal Section 99319 of the Public Utilities Code, to amend Section 7102 of the Revenue and Taxation Code, and to add Sections 2126 and 2127 to the Streets and Highways Code, relating to transportation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. Section 99319 of the Public Utilities Code is repealed.

SEC. 2. Section 7102 of the Revenue and Taxation Code is amended to read:

7102. The money in the fund shall, upon order of the Controller, be drawn therefrom for refunds under this part or be transferred in the following manner:

(a) (1) All revenues, less refunds, derived under this part at the 4¾ percent rate, including the imposition of sales and use taxes with respect to the sale, storage, use, or other consumption of motor vehicle fuel which would not have been received if the sales and use tax rate had been 5 percent and if motor vehicle fuel, as defined for purposes of the Motor Vehicle Fuel License Tax Law (Part 2 (commencing with Section 7301)), had been exempt from sales and use taxes, shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance shall be transferred during each fiscal year to the Transportation Planning and Development Account in the State Transportation Fund for appropriation pursuant to Section 99312 of the Public Utilities Code.

(2) If the amount transferred pursuant to paragraph (1) is less than one hundred ten million dollars ($110,000,000) in any fiscal year, an additional amount equal to the difference between one hundred ten million ($110,000,000) and the amount so transferred shall be transferred, to the extent funds are available, as follows:

(A) For the 1986–87 fiscal year, from the General Fund.

(B) For the 1987–88 and each subsequent fiscal year, from the increase in state revenues due to the imposition of sales and use taxes on fuel, as defined for purposes of the Use Fuel Tax Law (Part 3 (commencing with Section 8601)), as determined pursuant the method specified in paragraph (1) to determine the increase in state revenues due to the imposition sales and use taxes on motor vehicle fuel.

(b) The balance shall be transferred to the General Fund.

(c) The estimate required by subdivision (a) shall be based on taxable transactions occurring during a calendar year, and the transfers required by subdivision (a) shall be made during the fiscal

year that commences during that same calendar year. Transfers required by paragraph (1) of subdivision (a) shall be made quarterly. Transfers required by paragraph (2) of subdivision (a) shall be made annually during the last quarter of the fiscal year.

SEC. 2.5. Section 7102 of the Revenue and Taxation Code is amended to read:

7102. The money in the fund shall, upon order of the Controller, be drawn therefrom for refunds under this part or be transferred in the following manner:

(a) (1) All revenues, less refunds, derived under this part at the 4¾ percent rate, including the imposition of sales and use taxes with respect to the sale, storage, use, or other consumption of motor vehicle fuel, which would not have been received if the sales and use tax rate had been 5 percent and if motor vehicle fuel, as defined for purposes of the Motor Vehicle Fuel License Tax Law (Part 2 (commencing with Section 7301)), had been exempt from sales and uses taxes, shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance shall be transferred to the Transportation Planning and Development Account in the State Transportation Fund for appropriation pursuant to Section 99312 of the Public Utilities Code.

(2) If the amount transferred pursuant to paragraph (1) is less than one hundred ten million dollars ($110,000,000) in any fiscal year, an additional amount equal to the difference between one hundred ten million ($110,000,000) and the amount so transferred shall be transferred, to the extent funds are available, as follows:

(A) For the 1986–87 fiscal year, from the General Fund.

(B) For the 1987–88 and each subsequent fiscal year, from the increase in state revenues due to the imposition of sales and use taxes on fuel, as defined for purposes of the Use Fuel Tax Law (Part 3 (commencing with Section 8601)), as determined pursuant the method specified in paragraph (1) to determine the increase in state revenues due to the imposition sales and use taxes on motor vehicle fuel.

(b) The balance shall be transferred to the General Fund.

(c) The estimate required by subdivision (a) shall be based on taxable transactions occurring during a calendar year, and the transfers required by subdivision (a) shall be made during the fiscal year that commences during that same calendar year. Transfers required by paragraph (1) of subdivision (a) shall be made quarterly. Transfers required by paragraph (2) of subdivision (a) shall be made annually during the last quarter of the fiscal year.

(d) For the 1985–86 fiscal year and each fiscal year thereafter, the Controller shall annually transfer from the General Fund to the Transportation Planning and Development Account in the State Transportation Fund, an amount necessary to fully reimburse the Transportation Planning and Development Account for any revenue loss caused as a result of the exemption provided under Section 6357.5.

SEC. 3. Section 2126 is added to the Streets and Highways Code, to read:

2126. (a) The money appropriated pursuant to Item 9675-101-890 of the Budget Act of 1985 (Chapter 111 of the Statutes of 1985) is hereby appropriated to the Controller for allocation to counties and cities for street and highway maintenance and reconstruction, 55 percent to the cities for allocation pursuant to subdivision (b) and 45 percent to the counties for allocation pursuant to subdivision (c).

(b) The amount to be allocated to a city, including a city and county, equals the amount available for allocation to the cities pursuant to subdivision (a) times the ratio of the total allocation it received pursuant to Section 2107 over all allocations made pursuant to that section during the prior fiscal year.

(c) Fifty-five percent of the funds payable under this section to counties, including a city and county, shall be apportioned among the counties in the proportion that the number of fee-paid and exempt vehicles registered in each county bears to the total number of fee-paid and exempt vehicles which are registered in the state.

Forty-five percent of the funds payable under this section to counties, including a city and county, shall be apportioned among the counties in the proportion that the number of miles of maintained county roads in each county bears to the total number of miles of maintained county roads in the state.

(d) For purposes of this section:

(1) "Maintenance" means (A) patching and (B) overlay and sealing.

(2) "Reconstruction" does not include widening or increasing the traffic capacity of a street or highway.

(e) The Controller shall allocate the funds available for that Item 9675-101-890 within 30 days after they become available to the state.

SEC. 4. Section 2127 is added to the Streets and Highways Code, to read:

2127. (a) In order to receive any allocation pursuant to Section 2126 or Section 6 of the act enacting this section, the city or county, as the case may be, shall expend for the maintenance and reconstruction, as defined in subdivision (d) of Section 2126, of its local street and highway system during each of the fiscal years that it receives an allocation pursuant to Section 2126 or that Section 6 not less than the sum of its base year expenditure and the allocations received during the fiscal year.

(b) (1) For purposes of this section, "base year expenditure" means the amount that the city or county, as the case may be, expended for patching, overlay and sealing, and reconstruction of its local street and highway system during the 1984–85 fiscal year, as reported to the Controller pursuant to Section 2151.

(2) If the sum of the funds received by a city or county pursuant to Section 500 of Title 16, Section 104 (b) (2) and (6) and Section 125 of Title 23, and Chapter 68 (commencing with Section 5121) of the

Title 42 of the United States Code expended for the maintenance and reconstruction of its local street and highway system during the 1984–85 fiscal year, as reported to the Controller pursuant to Section 2151, is more than the sum of funds it received from those sources during any fiscal year, the base year expenditure of the city or county, as the case may be, for the fiscal year shall be reduced by the difference between the sums.

(c) For each fiscal year during which an allocation was made pursuant to Section 2126 or that Section 6, or both, the Controller shall audit the amount each county and city expended for the maintenance and reconstruction, as defined in subdivision (d) of Section 2126, of its local street and highway system during the fiscal year.

(d) If the Controller determines pursuant to subdivision (c) that a county or city, for the fiscal year, expended for the maintenance and reconstruction of its local street and highway system less than the required amount determined pursuant to subdivision (a), its allocation pursuant to Section 2104 or 2107, as the case may be, shall be reduced during the next fiscal year by the amount that its expenditure is less than the required amount.

(e) Any funds withheld as a result of subdivision (d) of this section shall be reallocated to the other counties and cities whose expenditure is not less than its required amount pursuant to subdivision (b) or (c) of Section 2126, as the case may be.

SEC.5. Section 2.5 of this bill incorporates amendments to Section 7102 of the Revenue and Taxation Code proposed by both this bill and SB 80. 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 7102 of the Revenue and Taxation Code, and (3) this bill is enacted after SB 80, in which case Section 7102 of the Revenue and Taxation Code, as amended by SB 80, shall remain operative only until the operative date of this bill, at which time Section 2.5 of this bill shall become operative, and Section 2 of this bill shall not become operative.

SEC. 6. This bill shall become operative only if Assembly Bill 1024 of the 1985–86 Regular Session is enacted.

SEC. 7. The sum of two hundred fifteen million dollars ($215,000,000) is hereby appropriated from the General Fund to the Controller for allocation to counties and cities pursuant to Section 2126 of the Streets and Highways Code as follows:

(a) One hundred twenty-five million dollars ($125,000,000) for the 1985–86 fiscal year for allocation by October 1, 1985.

(b) Ninety million dollars ($90,000,000) for the 1986–87 fiscal year for allocation by October 1, 1986. This subdivision shall become operative on July 1, 1986.

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 that urgently needed funds be made available for transportation purposes as early as possible, it is necessary that this act take effect immediately.

CHAPTER 1601

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

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

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

SECTION 1. The Legislature finds and declares the following:

(a) That the entertainment industry focuses attention upon the beauty, heritage, and values of California to people throughout the world; that this industry is symbolic of California's excitement, glamour, and prosperity, as well as the state's artistic, cultural, and creative excellence; that it provides for a significant amount of employment and economic activity in the state; and that the history of this industry should be preserved for the entertainment and educational benefit of present and future generations.

(b) That an entertainment museum would provide an opportunity for a public and private partnership between state and local government and the entertainment industry, including motion pictures, television, recording, and radio, for the purpose of preserving and portraying the history of the entertainment industry in a dynamic, colorful, and educational fashion.

(c) That an entertainment museum has the potential of attracting a projected one million tourists to California annually.

(d) That an entertainment museum would result in a significant increase in jobs and in economic activity in the Hollywood area and would generate economic benefits to California without the need for an ongoing financial commitment by the state.

(e) That the development of an entertainment museum would demonstrate California's commitment to the entertainment industry and would help reduce runaway production.

SEC. 2. There is hereby appropriated the sum of seven hundred eighty-five thousand dollars ($785,000) from the General Fund to the Director of Commerce, without regard to fiscal years, for allocation to a nonprofit corporation for the purpose of implementing Phase II planning for the Hollywood Exposition and Museum. The nonprofit corporation to which these funds are allocated shall have as its primary purpose the planning, construction, and operation of a Hollywood Exposition and Museum, 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.

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 next phase of planning for the Hollywood Exposition and Museum may take place in a timely manner and that full advantage of other potential funding sources may be taken, it is necessary that this act take effect immediately.

CHAPTER 1602

An act relating to public resources, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

I am deleting the following appropriations contained in Senate Bill No 1391.

$800,000 from the Special Account for Capital Outlay for Sonoma Coast State Beach, Meyer's Ranch acquisition This property does not face near-term development and can be ranked with other acquisitions during a subsequent budget process

$190,000 from the General Fund for augmentation of Item 3790-001-001 of the Budget Act of 1985 for staff support of the California Agricultural Museum in Fresno The Budget Act of 1985 already has provided $60,000 for this purpose

I am also reducing Section 5 (b) of SB 1391 from $20,000,000 to $5,000,000 I support the efforts to preserve Lake Tahoe, however, this amendment was made late in the session (September 12) and we have not had a full opportunity to determine how the entire amount would be spent I will review this proposal during the preparation of my 1986–87 Budget

With these deletions, I approve Senate Bill No 1391

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. The sum of one million fifty thousand dollars ($1,050,000) is hereby appropriated from the Special Account for Capital Outlay in the General Fund to the Department of Parks and Recreation for the state parks system, to be allocated as follows:

(a) Two hundred fifty thousand dollars ($250,000) for San Pasqual Battlefield State Historic Park, construction of a visitor center.

(b) Eight hundred thousand dollars ($800,000) for Sonoma Coast State Beach, Meyer's Ranch acquisition.

SEC. 2. Notwithstanding subdivision (g) of Section 21191 of the Public Resources Code, the sum of one million three hundred thousand dollars ($1,300,000) is hereby appropriated from the

California Environmental License Plate Fund to the California Tahoe Conservancy for the purchase of real property and the development of related facilities for park purposes in Kings Beach, California, in connection with the North Tahoe Public Access Project.

SEC. 3. Notwithstanding subdivision (g) of Section 21191 of the Public Resources Code, the sum of two hundred thirty-one thousand five hundred dollars ($231,500) is hereby appropriated from the California Environmental License Plate Fund to the Department of Parks and Recreation to acquire the real property comprising the petrified forest in the Counties of Napa and Sonoma for the state park system.

SEC. 4. The sum of one hundred ninety thousand dollars ($190,000) is hereby appropriated from the General Fund to the Department of Parks and Recreation in augmentation of Item 3790-001-001 of the Budget Act of 1985 (Chapter 111, Statutes of 1985) for staff support of the California Agricultural Museum in Fresno.

SEC. 5. (a) The Lake Tahoe Assistance Fund is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, moneys in the fund are continuously appropriated to the California Tahoe Conservancy to be utilized pursuant to its authority under Title 7.42 (commencing with Section 66905) of the Government Code for capital outlay, local assistance, administrative cost, acquisitions, and site improvements as may be necessary in the Lake Tahoe Region, as defined in Section 66905.5 of the Government Code.

(b) The sum of twenty million dollars ($20,000,000) of federal settlement funds received by the state on or before January 1, 1987, pursuant to subdivision (g) of Section 1337 of Title 43 of the United States Code shall be deposited in the fund and may be expended by the conservancy during the 1985–86, 1986–87, and 1987–88 fiscal years for the purposes specified in subdivision (a).

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 funds available as soon as possible for the specified public park and recreational and resource conservation purposes, it is necessary that this act take effect immediately.

CHAPTER 1603

An act to amend Sections 41850, 56425, 56711, and 56760 of, to amend, repeal, and add Section 56728.6 of, to add Sections 46200.5, 46201.5, 56427, 56428, 56728.8, and 56830 to, to add Article 8 (commencing with Section 56771) to Chapter 7 of Part 30 of, to repeal and add Section 56730.5 of, the Education Code, and to amend

Item 6100-161-001 Section 2.00 of Chapter 111 of the Statutes of 1985, relating to special education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

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

I am deletmg Section 11.7 of Senate Bill No 1264 which contains a $10 million appropriation for additional growth in special education

Despite this reduction, more than $1 2 billion in state and federal funds will be expended for the special education program in 1985–86. 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

With this deletion, I approve Senate Bill No 1264.

GEORGE DEUKMEJIAN, Governor

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. (a) 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 department determines, and the Legislature concurs, that the funds are no longer needed for that purpose.

(b) Programs ineligible to receive funding pursuant to Section 56425 or 56728.8 may receive funding pursuant to subdivision (a).

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 service 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. 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 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 otherwise required by the Superintendent of Public Instruction.

(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 with an average daily attendance of more than 30,000.

(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. 8.5. Section 56730.5 of the Education Code is repealed.

SEC. 9. 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. 9.5. 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. Such 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. 10. 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 purchasing 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. 11. 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 vocationl programs; growth in low incidence funds; 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. 11.5. For the 1985–86 fiscal year, instructional personnel service units which were used in the 1984–85 fiscal year to provide services to children younger than three years of age shall be excluded from computations made pursuant to Section 56728.6 of the Education Code, but shall be included in computations made pursuant to Section 56728.8 of the Education Code.

SEC. 11.7. Item 6100-161-001 of Section 2.00 of Chapter 111 of the Statutes of 1985 is amended to read:

6100-161-001—For local assistance, Department of Education, Program 10.60--Special Education Programs for Exceptional Children 788,698,000

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, $20,-

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.

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 1984–1985 Second Principal Apportionment.

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.

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 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.

SEC. 12. 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. 13. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that 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 1604

An act to amend Section 16367.6 of, and to add Sections 16367.61, 16367.65, 16367.7, 16367.71, and 16367.75 to, and to repeal and add Section 16367.5 of, the Government Code, relating to energy assistance, and making an appropriation therefor.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

I have approved Senate Bill No 724 because it will enhance the administration of the Low Income Home Energy Assistance Program (LIHEAP) and provide assistance to the "working" poor

While the bill expresses legislative intent that General Fund monies be appropriated to the Department of Social Services in lieu of the 10 percent transfer from the LIHEAP block grant, I do not necessarily concur with this provision and such an action will be subject to prioritization with all proposed General Fund expenditures

I am deleting the $3 5 million appropriation for the methanol transit buses and a pilot driver education program because these programs are of low priority in relation to other alternative uses of PVEA funding

I am also deleting the $2 million appropriated for the Energy Crisis Intervention Program (ECIP) because these funds would be derived from a transfer from the General Fund which I believe is inappropriate The ECIP program is not eligible for funding under current PVEA program regulations

With these deletion, I approve Senate Bill No 724

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Residential utility rates have increased significantly during the last several years.

(b) Increased residential utility costs have the greatest impact on those individuals who have the least ability to pay them.

(c) While increases in residential utility costs can be mitigated by adoption of energy conservation practices and by installation of weatherization measures, low-income persons are frequently unfamiliar with state and utility programs that provide energy conservation education and weatherization services.

(d) Federal regulations require that states not differentiate between categorically eligible individuals and individuals who qualify solely by an income test when determining eligibility for low-income home energy assistance programs.

(e) The existing state distribution plan for low-income home energy assistance funds does not aid persons who have qualifying incomes, but are not recipients of, categorical assistance.

(f) Low-income home energy assistance programs funds were allocated by the United States Congress to provide energy assistance for the poor and elderly.

(g) The United States Congress also intends Petroleum Violation Escrow Account funding to provide restitution to individuals most seriously harmed by the overcharges.

SEC. 2. Section 16367.5 of the Government Code is repealed.

SEC. 3. Section 16367.5 is added to the Government Code, to read:

16367.5. The State Office of Economic Opportunity shall receive and administer the federal Low-Income Home Energy Assistance Programs Block Grant, provided for pursuant to the Low-Income Home Energy Assistance Act of 1981, as amended (42 U.S.C. Sec. 8621

et seq.), and shall allocate funds received as follows:

(a) Five percent of the total federal allocation shall be allocated for purposes of administration. An additional 2.5 percent of the total federal allocation shall be set aside for administrative purposes and made available upon request of the Department of Finance and pursuant to Section 28 of Chapter 99 of the Statutes of 1981.

(b) An amount not to exceed 10 percent of the total federal allocation to the State Department of Social Services for social service programs under Chapter 5 (commencing with Section 13000) of Part 3 of Division 9 of the Welfare and Institutions Code.

This allocation shall be implemented prior to the first fiscal year for which an equivalent amount of state funding is identified and appropriated to the State Department of Social Services. It is the intent of the Legislature that identification and appropriation of an equivalent amount of state funding be made pursuant to the Budget Act of 1986.

(c) Fifteen percent of the total federal allocation for weatherization services for eligible individuals. For the purposes of this subdivision, weatherization shall include all energy conservation measures and energy efficient appliances that are cost effective and improve energy efficiency. For the purposes of this subdivision, these services shall be available to households in which one or more individuals are receiving aid under Chapter 2 (commencing with Section 11200) and Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code, county general assistance recipients under Part 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code, Food Stamp Program recipients, provided for under Chapter 10 (commencing with Section 18900) of Part 6 of Division 9 of the Welfare and Institutions Code, payments under Section 415, 521, 541, or 542 of Title 38 of the United States Code, or under Section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978, and other households with incomes that do not exceed an amount equal to 150 percent of the federally established poverty level.

(d) Twenty-five percent for the Energy Crisis Intervention Program which shall consist solely of emergency assistance to eligible individuals for programs specified in this subdivision who give evidence of one or more of the following conditions:

(1) Proof of utility shutoff notice.

(2) Proof of energy termination.

(3) Insufficient funds to establish a new energy account.

(4) Insufficient funds to pay a current or delinquent utility bill.

(5) Insufficient funds to pay the cost of space heating devices where no alternative source of space heating is reasonably available.

(6) Insufficient funds to pay for essential firewood.

(7) Insufficient funds to pay for the cost of emergency repairs to heating and cooling units.

(8) Insufficient funds to pay energy costs for a household in which a household member's medical condition requires use of life support

or climate and temperature control systems.

The crisis intervention program shall not include advocacy, community mobilization, or community planning.

The Energy Crisis Intervention Program shall be available to households containing recipients of programs contained in Division 9 (commencing with Section 10000) of the Welfare and Insitutions Code and which are referred to in subdivision (b) and other households with incomes that do not exceed 130 percent of the federally established poverty level.

(e) The remainder of the total federal allocation shall be utilized for aid for home energy costs for direct assistance payments, which shall be distributed in accordance with subdivision (c) of Section 16367.6. Services shall be provided to both of the following:

(1) Households in which one or more individuals are receiving any of the following:

(A) Aid to families with dependent children under the state's plan approved under Part A of Title IV of the federal Social Security Act (42 U.S.C. Sec. 601 et seq.) and Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code, other than aid in the form of foster care received in accordance with Section 408 of the federal Social Security Act.

(B) Supplemental Security Income payments under Title XVI of the federal Social Security Act (42 U.S.C. Sec. 1381 et seq.) and Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code).

(C) Food stamps received pursuant to Chapter 10 (commencing with Section 18900) of Part 6 of Division 9 of the Welfare and Institutions Code.

(D) Payments under Section 415, 521, 541, or 542 of Title 38, United States Code, or under Section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978.

(2) Households with incomes which do not exceed the greater of either an amount equal to 150 percent of the poverty level for this state, or an amount equal to 60 percent of the state median income, except that no household may be excluded from eligibility under this paragraph if the household has an income which is less than 110 percent of the poverty level of this state.

(f) The State Office of Economic Opportunity shall contract with local public or private nonprofit agencies to assist with outreach and intake and other activities to enroll eligible individuals.

(g) The program components provided for in subdivisions (c) and (e) shall include activities to enroll eligible individuals, especially the elderly and disabled, and to educate recipients about general energy conservation practices and about the availability of state and utility programs for free weatherization of low-income homes.

(h) The State Office of Economic Opportunity and the Office of Planning and Research may enter into an interagency agreement concerning the education component of this section. If an agreement is entered into pursuant to this subdivision, it shall provide that the

Office of Planning and Research shall contract with local public or private nonprofit agencies for the education component. In order to maximize the efficiency of these programs, the Office of Planning and Research shall contract, to the extent feasible, with community-based organizations and community-action agencies providing crisis intervention grants under this section.

SEC. 4. Section 16367.6 of the Government Code is amended to read:

16367.6. (a) The State Office of Economic Opportunity shall receive and administer all state and federal funds which are allocated for programs to provide energy assistance to qualified low-income individuals only, except for those funds which are allocated to, and distributed by, the California Energy Extension Service.

(b) No later than November 1, 1984, the State Office of Economic Opportunity shall promulgate a comprehensive procedure to assure that those energy assistance funds are utilized in the most productive and efficient manner, including a distribution system whereby all funds allocated for direct assistance payments are distributed by state and local agencies directly to the electrical or gas corporations or other suppliers of energy on behalf of the qualified low-income individuals or by two-party checks made payable to both the energy supplier and the individual. In establishing this system, the State Office of Economic Opportunity shall consult with representatives of electrical or gas corporations or other suppliers of energy and with local agencies that participate in distributing assistance funds.

The State Office of Economic Opportunity shall have the discretion to adjust payments to the energy supplier or the individual or to make direct payments to the individual for payment to an energy supplier in special or unique circumstances not otherwise provided for in this section.

(c) The State Office of Economic Opportunity shall submit an annual report to the Legislature no later than August 15 describing the following aspects of the Low-Income Home Energy Assistance Program:

(1) The amount of money expended on the program.

(2) The number of individuals served by the program.

(3) The average amount of assistance provided to program recipients.

(4) The amount of unexpended Home Energy Assistance Program funds remaining after the close of the application period.

(5) An estimate of the number of individuals eligible under paragraph (2) of subdivision (e) of Section 16367.5 and the number and level of those eligible individuals served within available resources.

SEC. 5. Section 16367.61 is added to the Government Code, to read:

16367.61. In order to make administrative improvements in the Low-Income Home Energy Assistance Program components provided for in subdivisions (b), (c), and (e) of Section 16367.5, the

State Office of Economic Opportunity shall contract, during the 1986 program year, with nonprofit organizations to implement pilot programs and demonstration projects including, but not limited to, all of the following:

(a) Decentralization of the Low-Income Home Energy Assistance Program providing benefits to eligible individuals.

(b) A trust account system for the payment of utility companies by contractors on behalf of eligible individuals.

(c) An electronic transfer payment system between the State Office of Economic Opportunity, commercial banks, local administering agencies, and participating energy suppliers.

(d) Analyze the State Office of Economic Opportunity operated weatherization programs provided for under subdivision (b) of Section 16367.5, using utility-funded programs as models, and recommend techniques to increase efficiency and provide maximum energy savings for dollars spent.

SEC. 6. Section 16367.65 is added to the Government Code, to read:

16367.65. The State Office of Economic Opportunity may enter into an agreement with the California Energy Extension Service to provide technical assistance and outreach programs to low-income individuals and the State Office of Economic Opportunity energy agencies which shall include, but not be limited to, all of the following:

(a) Energy education programs for recipients of low-income energy assistance.

(b) Energy education to senior citizens, disabled individuals, Native Americans, seasonal migrant workers, and rural communities.

(c) Training programs and technical assistance for community action agencies and community-based organizations and other groups which administer the low-income home energy assistance programs at the local level.

SEC 7. The Legislature finds the following:

(a) The State Office of Economic Opportunity (OEO) has, in the past, been consistently late in providing payment to community-based organizations and community action agencies which administer the Energy Crisis Intervention Program (ECIP) component of the Low-Income Home Energy Assistance Block Grant Program.

(b) To continue funding ECIP when the program funding has not arrived on schedule from OEO, community-based organizations and community action agencies have borrowed money.

(c) Without these borrowed funds, community-based organizations and community action agencies would have to deny eligible individuals emergency energy assistance because OEO was late in providing promised payment.

(d) Eligible individuals face a shutoff of their utilities if the community-based organizations and community action agencies do not borrow money to cover mandated program expenses.

(e) The interest on these borrowed funds currently must be paid out of the budgets of the community-based organizations and community action agencies, thereby reducing the amount of money they have available to spend on their programs.

SEC. 8. Section 16367.7 is added to the Government Code, to read:

16367.7. Whenever the State Office of Economic Opportunity does not allocate Energy Crisis Intervention Program funds on schedule to a community-based organization or community action agency and the organization or agency finds it necessary to obtain a loan in order to cover its program costs, the office shall pay any interest charges on the loan out of the funds budgeted for the administration of the State Office of Economic Opportunity, unless the failure to allocate is due to an incomplete application or report and the office promptly gives notice of this fact to the organization or agency.

Any interest payable by the office pursuant to this section shall be paid by the Controller to the organization or agency from available funds in the office's budget. If any interest charge is paid by the office pursuant to this section, the office shall report this fact to the Legislature and describe what actions are being taken to prevent additional payments of interest charges.

SEC. 9. Section 16367.71 is added to the Government Code, to read:

16367.71. Notwithstanding any other provision of law, whenever a warrant distributed pursuant to Section 16367.5 or 16367.6 remains unclaimed, or the claimant cannot be found, for a period of six months following its disbursement, the face amount of the unclaimed warrant shall revert and be credited to the fund against which the warrant was drawn.

SEC. 10. Section 16367.75 is added to the Government Code, to read:

16367.75. The State Office of Economic Opportunity shall biennially, commencing January 1, 1987, submit a report to the Legislature on the results of the pilot projects and demonstration program, provided for under subdivision (f) of Section 16367.5 and Sections 16367.61 and 16367.65, and the impact of expanding program eligibility.

SEC. 11. (a) The sum of two million dollars ($2,000,000) is hereby appropriated from the Federal Trust Fund, which was created pursuant to Section 16360 of the Government Code, for the Energy Crisis Intervention Program provided under subdivision (c) of Section 16367.5 of the Government Code. This sum shall be allocated from the sum of two million dollars ($2,000,000) transferred from the General Fund to the Federal Trust Fund in repayment of interest earned on federal Petroleum Violation Escrow Account receipts deposited in the Federal Trust Fund.

(b) The sum of three million dollars ($3,000,000) is hereby appropriated from petroleum violation escrow funds to which the

State of California is entitled pursuant to the decision and order of the United States Department of Energy regarding allocation of National Helium Corporation overcharges in Case Number HQF-0501, to the Department of Transportation for assistance to local governments for improved traffic flow efficiency through optimized traffic signal timing and operation. This assistance shall give priority to projects located in low-income communities.

(c) The sum of three million three hundred thousand dollars ($3,300,000) is hereby appropriated from petroleum violation escrow funds to which the State of California is entitled pursuant to the decision and order of the United States Department of Energy, dated March 20, 1985, regarding the allocation of Charter Company overcharges in Case Number HQF-0480, to the State Energy Resources Conservation and Development Commission for a program to provide technical and financial assistance for public and private transit operators for the acquisition and operation of new and retrofitted methanol-powered transit buses.

(d) The sum of nine hundred thousand dollars ($900,000) of any other petroleum overcharge settlement funds to which the State of California is entitled and which are available to the state on or before September 1, 1985, is hereby appropriated to the Office of Appropriate Technology, Energy Extension Service, for a loan program to assist low-income fishing fleet operators to conserve fuel.

(e) The sum of two hundred thousand dollars ($200,000) of any other petroleum overcharge settlement funds to which the State of California is entitled and which are available to the state on or before September 1, 1985, is hereby appropriated to the State Department of Education to establish a pilot program to fit automobile driver training vehicles with instrumentation providing instructional information on fuel consumption and vehicle fuel efficiency, and provide in-service training to automobile driver training instructors on fuel efficient driving techniques and the use of this equipment. Any school district shall be eligible to apply for participation in the pilot program, with preference given to districts in regions with high vehicular air pollution. No more than one-third of the total appropriation under this section shall be used to evaluate the pilot program.

CHAPTER 1605

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

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

I am reducing the General Fund appropriation contained in Senate Bill No 121

from $2,336,066 87 to $2,330,066 87 by removing the attorney fees claim for Russell S. Balisok. This claim is more appropriately paid from the funds and provisions contained in Item 9810 of the Budget Act of 1985

With this reduction, I approve Senate Bill No 121

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. (a) The sum of two million four hundred twenty-eight thousand seventy-five dollars and sixty-eight cents ($2,428,075.68) is hereby appropriated in accordance with the following schedule to the State Board of Control to pay the claims of the Secretary of the State Board of Control:

(1) From the General Fund	$2,336,066.87
(2) From the Services Revolving Fund	92,008.81

(b) Funds appropriated by this act for payment of attorneys' fees pursuant to Section 1021.5 of the Code of Civil Procedure shall be expended only in accordance with the provisions of Items 9810-001-001, 9810-001-494, and 9810-001-988 of the Budget Act of 1985.

(c) (1) From the funds appropriated by this act from the General Fund, the following sums shall be allocated to the Department of Justice for the purposes specified:

(A) One million five hundred ninety-four thousand dollars ($1,594,000) to pay the settlement in the action captioned Gregory Scott McManus v. State of California (No. 168771), brought in the Superior Court of the State of California for the County of San Joaquin.

(B) Ninety-five thousand dollars ($95,000) to pay any increased costs of the settlement referred to in subparagraph (A) attributable to interest rate fluctuations.

(C) Two hundred twenty-six thousand dollars ($226,000) to pay the settlement in the action captioned Robert A. Lewis v. State of California (No. 43322), brought in the Superior Court of the State of California for the County of Mendocino.

(D) Eighteen thousand dollars ($18,000) to pay any increased costs of the settlement referred to in subparagraph (C) attributable to interest rate fluctuations of annuities.

(2) Within 10 days after the final payment of each settlement referred to in this subdivision, the Department of Justice shall provide the Controller, the Department of Finance, and the Legislature with written notification of the final payment, and any unexpended balance in the allocations made pursuant to this subdivision shall thereafter revert to the General Fund.

(3) For purposes of this subdivision, "final payment" means the filing, with the appropriate court, of a document which represents that all the financial transactions necessary to effectuate the settlement have occurred, to the satisfaction of the parties to the settlement. This document shall be executed by the parties to the settlement or by their attorneys of record.

SEC. 2. This act is an urgency statute necessary for the immedi-

ate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to settle claims against the state and to end hardships to claimants as quickly as possible, it is necessary for this act to take effect immediately.

CHAPTER 1606

An act to amend Sections 14400 and 14406 of the Public Resources Code, relating to the California Conservation Corps, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

I am reducing the appropriation contained in Section 3 of Senate Bill No 104 from $1 million to $375,000

The reduced appropriation provides sufficient funding to the California Conservation Corps (CCC) for 45 additional corps-members, who would accomplish more than 50,000 hours of public service conservation work This reduced appropriation can be properly managed by the Corps within its current administrative capacity

The CCC plays an indispensable role in protecting California natural environment through its work and emergency response in our communities, and I am proud to recognize the Corps significant contribution of service to the State

With this reduction, I approve Senate Bill No 104

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Section 14400 of the Public Resources Code is amended to read:

14400. The corps shall develop nonresidential programs in urban communities, and may develop those programs in other than urban communities, which have high concentrations of ethnic-minority youths, which have high levels of youth unemployment, and which have a need for conservation work. Expenditures for programs in other than urban communities shall not exceed 15 percent of total funding for programs under this section.

SEC. 2. Section 14406 of the Public Resources Code is amended to read:

14406. The corps may contract with public or private nonprofit agencies to provide services for a nonresidential program. The public or private nonprofit agency shall meet all of the following requirements:

(a) The agency shall submit a proposal which demonstrates that its program is consistent with the policies of the corps and with this chapter.

(b) The agency shall, to the extent possible, secure funding or

services from the local service delivery area for necessary employment and training services.

(c) The agency shall secure reimbursements for a significant portion of the work performed.

(d) The agency shall secure a commitment from local educational institutions that appropriate educational services will be provided.

(e) The agency shall maintain, to the extent possible, the funding from foundations and other public and private organizations for a nonresidential program. If the agency does not have an existing nonresidential program, it shall secure at least a 25-percent match from other public or private organizations for the program.

SEC. 3. The sum of one million dollars ($1,000,000) is hereby appropriated from the General Fund to the California Conservation Corps for the 1985–86 fiscal year for the nonresidential programs provided for in Chapter 3.5 (commencing with Section 14400) of Division 12 of the Public Resources Code. The moneys appropriated in this section shall be used to serve low-income areas.

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 be operative at the earliest possible time in the 1985–86 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 1607

An act to amend Sections 68206, 69580, 69581, 69583, 69585, 69591, 69592, 69593, 69594, 69595, 69596, 69599, 69600, 69601, 69602, 69603, 69605, 69606, and 69611 of, to add Section 74782.1 to, and to add Chapter 13 (commencing with Section 77000) to Title 8 of, the Government Code, relating to courts.

[Approved by Governor October 2, 1985 Filed with Secretary of State October 2, 1985]

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

SECTION 1. It is the intent of the Legislature that counties and cities report to the Controller uniform, accurate, and complete data regarding trial court related costs and revenue in order to provide the Legislature with financial information relating to trial court operations.

In order to assure that data collection may be assessed and analyzed to facilitate operation of the Trial Court Funding Act of 1985, the Controller, in consultation with the Legislative Analyst and Judicial Council, shall seek to assure uniform, accurate, and complete city and county reporting of court revenues and costs, and shall

conduct audits as deemed necessary to assure such reporting.

The Controller shall report to the Legislature on data collected pursuant to this section on or before June 1, 1986.

SEC. 2. Section 68206 of the Government Code is amended to read:

68206. (a) Of the annual salary of each superior court judge the county for which he is elected or appointed shall pay the amount prescribed below and the remainder shall be paid by the state:

(1) Nine thousand five hundred dollars ($9,500) for a county of 250,000 or more.

(2) Seven thousand five hundred dollars ($7,500) for a county of more than 40,000 and less than 250,000.

(3) Five thousand five hundred dollars ($5,500) for a county of 40,000 or less.

(b) In any state funding option county of the annual salary of each superior and municipal court judge, the county for which he is elected or appointed shall pay the amount prescribed below and the remainder shall be paid by the state:

(1) Nine thousand five hundred dollars ($9,500) for a county of 250,000 or more.

(2) Seven thousand five hundred dollars ($7,500) for a county of more than 40,000 and less than 250,000.

(3) Five thousand five hundred dollars ($5,500) for a county of 40,000 or less.

SEC. 3. Section 69580 of the Government Code is amended to read:

69580. In the County of Alameda there shall be 31 judges of the superior court. However, there shall be 34 judges of the superior court in the County of Alameda if the board of supervisors finds there are sufficient funds for the additional judges and adopts a resolution to that effect.

SEC. 4. Section 69581 of the Government Code is amended to read:

69581. In the County of Butte there shall be three judges of the superior court; provided that at such time as the Butte County Board of Supervisors finds there are sufficient funds for one additional judge and adopts a resolution to that effect, there shall be four judges of the superior court.

SEC. 5. Section 69583 of the Government Code is amended to read:

69583. In the County of Fresno there shall be 16 judges of the superior court; provided, that if the board of supervisors finds there are sufficient funds for an additional judge and adopts a resolution to that effect, there shall be 17 judges of the superior court.

SEC. 6. Section 69585 of the Government Code is amended to read:

69585. In the County of Kern there shall be 15 judges of the superior court.

SEC. 7. Section 69591 of the Government Code is amended to

read:

69591. (a) In the County of Orange there shall be 54 judges of the superior court.

(b) Pursuant to, and in furtherance of, the provisions of stated legislative intent contained in Section 2 of Chapter 1587 of the Statutes of 1982, no session of the Orange County superior or municipal courts shall be held in the old courthouse in Santa Ana, County of Orange, California.

SEC. 8. Section 69592 of the Government Code is amended to read:

69592. In the County of Riverside there shall be 19 judges of the superior court; provided, that at such time as the Riverside County board of supervisors finds there are sufficient funds for any number of additional judges up to a total of three and adopts a resolution or resolutions to that effect, there shall be 19 judges of the superior court plus the additional judge or judges provided by this section.

SEC. 9. Section 69593 of the Government Code is amended to read:

69593. In the County of Sacramento there shall be 27 judges of the superior court; provided, that if the board of supervisors finds there are sufficient funds for two additional judges of the superior court and adopts a resolution to that effect, there shall be 29 judges of the superior court.

SEC. 10. Section 69594 of the Government Code is amended to read:

69594. In the County of San Bernardino there shall be 24 judges of the superior court; provided that at such time as the Board of Supervisors of San Bernardino County finds there are sufficient funds for an additional judge and adopts a resolution to that effect, there shall be 25 judges of the superior court.

SEC. 11. Section 69595 of the Government Code is amended to read:

69595. In the County of San Diego there shall be 49 judges of the superior court. However, at such time as the board of supervisors finds there are sufficient funds for any number of additional judges up to a total of nine and adopts a resolution to that effect, there shall be 49 judges of the superior court plus the judge or judges provided by this section.

SEC. 12. Section 69596 of the Government Code is amended to read:

69596. In the City and County of San Francisco there shall be 29 judges of the superior court, any one or more of whom may hold court.

SEC. 13. Section 69599 of the Government Code is amended to read:

69599. In San Mateo County there shall be 16 judges of the superior court.

SEC. 14. Section 69600 of the Government Code is amended to read:

69600. In the County of Santa Clara there shall be 34 judges of the superior court.

SEC. 15. Section 69601 of the Government Code is amended to read:

69601. In the County of Shasta there shall be three judges of the superior court; provided, that at such time as the Shasta County Board of Supervisors finds that there are sufficient funds for an additional judge and adopts a resolution to that effect, there shall be four judges of the superior court.

SEC. 16. Section 69602 of the Government Code is amended to read:

69602. In the County of Solano there shall be seven judges of the superior court.

SEC. 17. Section 69603 of the Government Code is amended to read:

69603. In the County of Sonoma there shall be nine judges of the superior court.

SEC. 18. Section 69605 of the Government Code is amended to read:

69605. In the County of Tulare there shall be seven judges of the superior court.

SEC. 19. Section 69606 of the Government Code is amended to read:

69606. In the County of Ventura there shall be 13 judges of the superior court; provided, that at such time as the board of supervisors finds, on or after January 1, 1986, that there are funds for one or two additional superior court judges and adopts a resolution or resolutions to that effect, there shall be 13 judges plus the additional judge or judges provided by this section.

SEC. 20. Section 69611 of the Government Code is amended to read:

69611. In the County of Yuba there shall be three judges of the superior court.

SEC. 20.5. Section 74782.1 is added to the Government Code, to read:

74782.1. A majority of the municipal court judges may appoint one commissioner who shall possess the same qualifications as the law requires of a judge of a municipal court. The duties of the commissioner shall be as prescribed by law. The commissioner shall receive 75 percent of the salary of a judge of the municipal court and shall not engage in the private practice of law. The commissioner shall be entitled to all employee benefits that are provided for or made applicable to the other employees of the court.

SEC. 21. Chapter 13 (commencing with Section 77000) is added to Title 8 of the Government Code, to read:

CHAPTER 13. OPTIONAL STATE FUNDING OF TRIAL COURTS

Article 1. General Provisions

77000. This chapter shall be known and may be cited as the Trial Court Funding Act of 1985.

77001. The following definitions govern the construction of this chapter:

(a) "Block grant" means the amount of state funds to be provided to a participating county for the support of the operation of the trial courts, as determined by the product of the rate of reimbursement under Section 77200 multiplied by the number of reimbursable positions.

(b) "Board" means the board of supervisors of a county.

(c) "Court operations" means the county share of superior and municipal court judges' salaries, benefits, and public agency retirement contributions, and the salary, benefits, and public agency retirement contributions for justice court judges, subordinate judicial officers, other court staff including all municipal court staff positions specifically prescribed by statute, one bailiff per authorized judicial position, and materials and supplies relating to court operations, and actual indirect costs, not to exceed 18 percent of the block grant, for county general services attributable to court operations, but specifically excluding, but not limited to, law library operations conducted by a trust pursuant to statute; courthouse construction; or district attorney services; probation services; indigent criminal defense; grand jury expenses and operations; and pretrial release services.

(d) "Filing fees" means any and all fees and charges, liberally construed, collected or collectible for filing, processing, copying, endorsing, or for any other service related to court operations as defined in subdivision (c).

(e) "Fine" means any monetary penalty collected for a violation of law, to the extent it would otherwise accrue to the benefit of a city, county, or city and county, including any penalty assessments or surcharges, whether collected by a court or agency of a county or city or city and county and regardless of the stage of the process after citation at which it is collected, except law library trust fund fees, criminal justice facility construction fees, courthouse construction fees, and money collected under any state law relating to the protection or propagation of fish and game.

(f) "Forfeiture" means all money forfeited by a person charged or cited for a violation of law, to the extent it would otherwise accrue to the benefit of a city, county, or city and county, except any money collected under any state law relating to the protection or propagation of fish and game, including bail, any penalty assessments or surcharges, whether collected by a court or agency of a county or city or city and county and regardless of the stage of the process after citation at which it is collected.

(g) "Option county" means a county or city and county which has adopted the provisions of this chapter for the current fiscal year.

(h) "Penalty assessment" means any amount charged as a proportion of any fine or forfeiture and collected in addition thereto, to the extent it would otherwise accrue to the benefit of a city, county, or city and county, except any money collected under any state law relating to the protection or propagation of fish and game.

(i) "State-mandated local program" means any and all reimbursements owed or owing by operation of either Section 6 of Article XIII B of the California Constitution, or Section 2231 of the Revenue and Taxation Code, or both.

(j) "Subordinate judicial officer" means a court commissioner or referee authorized by statute.

(k) "Trial court" means a superior court, municipal court, or justice court.

Article 2. Legislative Findings

77100. The Legislature finds and declares that:

(a) The trial of civil and criminal actions is an integral and necessary function of the judicial branch of state government under Article VI of the California Constitution.

(b) All citizens of this state should enjoy equal and ready access to the trial courts.

(c) Local funding of trial courts may create disparities in the availability of the courts for the resolution of disputes and the dispensation of justice.

(d) The method of funding trial courts should not create financial barriers to the fair and proper resolution of civil and criminal actions.

(e) Many people defend their personal and property rights in the courts, and seek redress through the judicial system only when compelled by sheer necessity of circumstance.

(f) This chapter is enacted to promote the general welfare and to protect the public interest in a viable and accessible judicial system.

77101. The Legislature further finds and declares that the expenditure of the state funds under the provisions of this chapter is in the public interest and necessary to the accomplishment of the purposes set forth above.

Article 3. State Finance Provisions

77200. The Controller shall transmit to each option county from the Court Funding Trust Account quarterly payments on the block grant owing to that county based upon the following rate of reimbursement:

(a) Four hundred ninety-five thousand eight hundred ninety-five dollars ($495,895) for each superior court judgeship; plus

(b) Four hundred eighty-three thousand fifty-two dollars ($483,052) for each superior court commissioner or referee; plus

(c) Four hundred eighty-nine thousand six hundred fourteen dollars ($489,614) for each municipal court judgeship; plus

(d) Four hundred sixty-nine thousand four hundred thirty-five dollars ($469,435) for each municipal court commissioner or referee.

77201. The sums set forth in Section 77200 shall be increased for each fiscal year by a percentage equal to the overall average percentage increase, if any, granted to state employees for salaries for the preceding state fiscal year, as determined by the Controller. This increase shall be cumulative but not compounded beginning with an adjustment for the 1987–88 fiscal year based on the 1986–87 state employees adjustment.

77202. (a) The number of judges, commissioners, and referees for the purpose of calculating the block grant for a county shall be as follows:

(1) The number of judges for purposes of calculating the block grant shall be those authorized by statute.

(2) The number of subordinate judicial officers for purposes of calculating the block grant shall be the number of full-time commissioners and referees authorized by statute and funded, except that if a board of supervisors is authorized by statute to increase the number of subordinate judicial officers, then the number shall be those authorized and funded pursuant to that authority as of July 1, 1985.

(b) The number of commissioners and referees shall not be changed during the first three years in which this chapter is in operation, and thereafter by specific statutory creation. An option county shall report the nature and quantity of the work performed by commissioners and referees, including the amount of stipulated cases heard by subordinate judicial officers, as required by the Judicial Council. The Judicial Council shall report on this data by December 31, of the second year following the year in which this chapter becomes operative..

(d) It is the intent of the Legislature that judicial duties be performed to the extent possible by judges and not by subordinate judicial officers, that the number of commissioners and referees be reduced, that those not performing subordinate judicial duties be replaced by the equivalent number of judges, and that nothing in this chapter shall be construed as legislative intent to provide block grants permanently for subordinate judicial officers who perform the duties of judges.

77203. Reimbursement to an option county pursuant to this chapter shall be in lieu of any sixty thousand dollar ($60,000) block amount traditionally provided by the Legislature for superior court judgeships established since January 1, 1973, for which such grants would otherwise be provided, payment for any prior or current program for which reimbursement of state-mandated local programs for the trial courts is claimed, and payment as provided in Section 77203.5.

77203.5. The initial decision by a county to opt into the system

pursuant to Section 77300 shall constitute a waiver of all claims of reimbursement for state-mandated local programs not theretofore approved by the State Board of Control, the Commission on State Mandates, or the courts to the extent the Governor, in his discretion, determines that waiver to be appropriate. The waiver shall not apply to or otherwise affect any claims accruing after initial notification. Renewal, renegotiation, or subsequent notification to continue in the program shall not constitute a waiver.

77204. An amount not less than the block grant owing to an option county shall be expended by the county for court operations. However, an option county shall also continue to provide the trial courts with the same proportionate level of indirect services as was provided in the 1984–85 fiscal year, shall also fulfill its shared financial and other obligations pursuant to Section 68073 of the Government Code, and shall budget for judicial arbitration and court mediation and conciliation services at a level of service proportionate to the number of cases filed subject to such programs in the 1984–85 fiscal year.

77205. The option county shall receive block grant disbursement from the state quarterly.

The Controller shall adopt appropriate regulations for recordkeeping, accounting, and reporting by an option county in order to determine the expenditures and revenues relating to this chapter. The Controller shall perform an annual financial and compliance audit of the reports submitted by option counties under this chapter. The Judicial Council may adopt other pertinent rules to further the implementation of this chapter.

Article 4. County Option Procedure

77300. An option county shall notify the state of its intent to opt into the system on or before August 1 of the year in which this chapter becomes operative, or on or before May 1 of any succeeding year, with annual renewal resolutions to be filed on or before May 1 of any succeeding calendar year, with regard to the immediately following fiscal year.

Nothing in this chapter shall be construed to prohibit the state and an option county by mutual agreement from entering into a two-year option term.

By accepting state funding of trial courts, the county agrees to perform all duties and provide services required by this chapter and all other provisions of law.

77301. A county shall notify the state of its intent to opt into the system by transmitting to the Secretary of State and the Controller a resolution, agreeing to be bound by the provisions of this chapter in consideration for state funding of trial courts in that county.

The resolution shall be signed by the chairperson of the board of supervisors, the presiding judge of the superior court, and the presiding judge of the municipal court district in which the county

seat is located, if there is a municipal court, and shall certify that a majority of each of the board of supervisors, the judges of the superior court, and the judges of the municipal courts in the county request state funding.

Article 5. Revenue Recapture

77400. After disposition of all Vehicle Code fines and forfeitures, or portions thereof, in accordance with Sections 1463.02 to 1463.20, inclusive, of the Penal Code, all fines and forfeitures, or portions thereof, which otherwise would accrue to the benefit of a city or cities within an option county, and all filing fees and fines and forfeitures, or portions thereof, which otherwise would accrue to an option county, shall all be transmitted quarterly by the option county to the state.

77401. All moneys so transmitted to the state shall be deposited by the Controller into the Court Funding Trust Account, which is hereby created in the General Fund. Interest on the account shall be to the sole benefit of the state.

77402. In the first year in which a county receives state funding for the trial courts under this chapter, the minimum amount of a county's transmittal of fines and forfeitures shall be equal to the higher of the actual amounts reported, or otherwise determined by the Controller, for the 1984–85 fiscal year or the actual amounts thereof collected in the first fiscal year for which state funding for trial courts is received, whichever is greater.

77403. In the second and each succeeding fiscal year, the county transmittal amount to the state shall be increased by any increase over and above the preceding year's total amount transmitted to the state or the actual transmittal amount in the preceding fiscal year, whichever is the greater amount.

77404. If the Controller has not received all fines and forfeitures transmitted pursuant to Section 77400 by the tenth day after the end of the month concluding the quarter, the Controller shall withhold subventions to the option county until the money is received by the state.

Article 6. Filing Fees and Inflator Factor

77500. The filing fees in the superior court of an option county shall be the same as those lawfully charged on January 1 of the year in which this chapter becomes operative, subject to the provisions of Section 77501.

The filing fees in a municipal or justice court in an option county shall be the same as those lawfully charged on January 1 of the year in which this chapter becomes operative, subject to the provisions of Section 77501.

77501. On January 1 of the year following the year in which this chapter becomes operative, and on January 1 of each year thereafter,

the filing fees in each option county shall be increased by the overall average percentage increase granted to state employees for salaries for the preceding state fiscal year, as determined by the Controller.

Article 7. Reimbursement Distributions

77600. A city in an option county shall be reimbursed by the Controller in the amount it would have received in the prior fiscal year if that city were not in an option county. Such reimbursement shall be made from moneys in the Court Funding Trust Account in two substantially equal payments on or before August 1 and November 1.

77601. This chapter shall not apply in any county for any fiscal year in which the distribution of moneys to cities in that option county is not made as provided in this article.

77602. If, by arrangement with a court, a city in an option county collects parking violation revenue, then that city shall retain that revenue, which shall be reported to the Controller and independently audited at the city's expense. The amount otherwise owing under Section 77600 shall be reduced by the amount of such revenue.

77603. If an option county elects not to opt into this chapter in a succeeding year or the chapter otherwise becomes inoperative in the county for a succeeding year, then the state or city shall pay, as the case may be, the difference between the amount paid by the state to a city and the actual amount the city would have received from fines, forfeitures, and penalties in the preceding option year. This payment shall be made by November 1 of the succeeding year.

77604. If any portion of this chapter is declared to be unconstitutional or void, the entire chapter shall become inoperative.

SEC. 22. Sections 3 to 20, inclusive, of this act shall become operative on July 1, 1986.

SEC. 23. Sections 2 and 21 of this act shall become operative upon the effective date of a statute appropriating funds for the purposes of this act.

SEC. 24. 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.

CONCURRENT AND JOINT RESOLUTIONS
AND CONSTITUTIONAL AMENDMENTS

1985–86

REGULAR SESSION

1985 RESOLUTION CHAPTERS

RESOLUTION CHAPTER 1

Senate Concurrent Resolution No. 4—Relative to the selection of the Legislative Counsel of California.

[Filed with Secretary of State December 5, 1984.]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That pursuant to Section 10201 of the Government Code, Bion M. Gregory is selected as Legislative Counsel of California.

RESOLUTION CHAPTER 2

Assembly Concurrent Resolution No. 5—Relative to the Leland Stanford Junior University.

[Filed with Secretary of State January 25, 1985]

WHEREAS, It was one day 100 years ago—March 9, 1885--that the California State Legislature passed into law an act which enabled Leland and Jane Stanford to found, by means of an ordinary trust, a university in memory of their son; and

WHEREAS, The act also created the legal means to found and protect other privately supported educational institutions in California, and was entitled:

"An act to advance learning, the arts and sciences, and to promote the public welfare, by providing for the conveyance, holding, and protection of property, and the creation of trusts for the founding, endowment, erection, and maintenance within this State of universities, colleges, schools, seminaries of learning, mechanical institutes, museums, and galleries of art"; and

WHEREAS, The university was founded on November 11, 1885, in the name of Leland Stanford Jr. by his grieving parents on their 9,000-acre Palo Alto stock farm, and it stands today among the great educational institutions in the world, with study centers in Austria, Brazil, Britain, Egypt, France, Germany, Israel, Italy, Nigeria, Peru, Spain, and Togo; and

WHEREAS, National surveys consistently rank Stanford among the finest universities in the world, both in its undergraduate programs and its graduate programs in the humanities, social sciences, business, education, engineering, law, and medicine; and

WHEREAS, The Stanford faculty currently includes 10 Nobel laureates, 75 members of the National Academy of Sciences, 118 members of the American Academy of Arts and Sciences, 38 members of the National Academy of Engineering, 10 members of the National Academy of Education, 10 winners of the National Medal of Science, and three Pulitzer Prize winners; and

WHEREAS, Forty Stanford students have been elected Rhodes Scholars since World War II and 23 have won Marshall Scholarships; and

WHEREAS, The university's enrollment this year is 6,593 undergraduates and 6,668 graduate students, who come from all 50 states and 90 foreign countries; and

WHEREAS, Forty-two percent of the student body enroll from this state, and 54 percent of Stanford's 130,000 living alumni now make California their home; and

WHEREAS, Graduates and faculty of the University have devoted themselves to public service, and they have served as President of the United States, ambassadors, cabinet officials, Congressmen and Senators, in the federal and state judiciary, and in state and local governments through the nation; and

WHEREAS, Women have been enrolled in the university from its beginning, and they have excelled in all of its disciplines and have served with distinction in each profession; Stanford's alumnae include the first woman to serve on the Supreme Court of the United States and the first American woman astronaut in space; and

WHEREAS, Today's Stanford University has exceeded what Leland and Jane Stanford envisioned for it and for their beloved California, when they pledged their worldly wealth to its founding and future care 100 years ago; and

WHEREAS, Assembly Member Sher is a longtime member of the Stanford faculty and, along with Senator Morgan, currently represents the Stanford area in the Legislature; and Senator Keene and the coauthors are all alumni of Stanford; and these Members of the Legislature take this opportunity to urge their colleagues to recognize this festive occasion; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California commemorates the act, adopted 100 years ago by our forebears, which enabled Governor and Mrs. Leland Stanford to found a privately supported university as a memorial to their only son; and be it further

Resolved, That the Legislature herewith marks the beginning of the Centennial of the Founding of the Leland Stanford Junior University on March 9, 1985; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a suitably prepared copy of this resolution to the Trustees of the Leland Stanford Junior University.

RESOLUTION CHAPTER 3

Senate Concurrent Resolution No. 10—Relative to Rural Crime Prevention Month.

[Filed with Secretary of State February 5, 1985]

WHEREAS, It is the responsibility of government, private industry, and the citizenry to assist in protecting themselves and others from becoming victims of crime; and

WHEREAS, Crime prevention programs implemented at the local level inspire citizens to actively participate in these worthwhile programs; and

WHEREAS, Crime prevention programs and the use of owner applied identification numbers to personal property have demonstrated effectiveness in crime reduction; and

WHEREAS, Private industry, government agencies, law enforcement agencies, agricultural organizations, the Attorney General, and the citizenry of California have joined in cooperation and sponsorship with the California Rural Crime Prevention Task Force to recognize California's first, annual "Rural Crime Prevention Month" in February 1985; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature hereby proclaims the month of February 1985, as "Rural Crime Prevention Month."

RESOLUTION CHAPTER 4

Senate Concurrent Resolution No. 12—Relative to Vocational Education Week.

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

WHEREAS, Vocational education includes both basic education and the practical skills that enable an individual to assume a productive place in our economic system; and

WHEREAS, Vocational education serves high school students, as well as adults, preparing them for occupations in agriculture, business, office work, marketing and distribution, home economics and homemaking, trade and industries, and health; and

WHEREAS, The specialized training required for more than 75 percent of today's jobs is not available in four-year, degree-granting institutions, but must be obtained at high schools, schools for adults, regional occupational centers, and community colleges; and

WHEREAS, The ultimate success of this endeavor rests with each and every individual who is concerned with providing opportunities through a comprehensive educational curriculum for all students; and

WHEREAS, The Legislature recognizes the importance of vocational education in California today in providing opportunities for students to put their knowledge and occupational skills to work in their chosen careers; and

WHEREAS, The second week of February has been designated Vocational Education Week throughout the country; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature hereby proclaims the week of February 10 through 16, 1985, to be "Vocational Education Week" in this state, to the end that proper public attention be focused upon the important aims and opportunities afforded by vocational program services throughout the State of California.

RESOLUTION CHAPTER 5

Assembly Concurrent Resolution No. 16—Relative to Women's History Week.

[Filed with Secretary of State February 25, 1985.]

WHEREAS, American women of every class and ethnic background participated in the founding of our nation and have played a critical role in shaping the economic, cultural, and social fabric of our society through their participation in the labor force, working both inside and outside the home; and

WHEREAS, Women have been leaders in every movement for progressive social change, including their own suffragette movement, the fight for emancipation, the struggle to organize labor unions, and the civil rights movement; and

WHEREAS, Despite these contributions, the role of American women in history has been consistently overlooked and undervalued; and

WHEREAS, The celebration of Women's History Week each year provides an opportunity for schools and communities to focus attention on the rich heritage of women's contributions in the United States; and

WHEREAS, Women's History Week coincides with International Women's Day, March 8, orginally proclaimed in 1910 to recognize and commemorate the valuable contributions women have made to the labor movement to improve working conditions and thus better peoples' lives; and

WHEREAS, The observance of Women's History Week was begun by the Sonoma County Commission on the Status of Women in 1978, and has since been commemorated throughout the nation by schools, historians, and community groups; and

WHEREAS, Women's History Week is not only a call to

acknowledge the outstanding American women whose names we know, but also a call to pay homage to the nameless women who have shaped our collective past; and

WHEREAS, The strides made by our foremothers enable contempory women to make tomorrow's history by advocating an end to physical and sexual assault, discrimination in the workforce, and the feminization of poverty, and by advocating for the full participation of women in the political arena, adequate child care, and equal access to all the opportunities this nation has to offer; and

WHEREAS, Because of the significance and scope of women's role in making history in shaping American culture and society, it is important that the State of California recognize the many contributions of women; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That they take pleasure in joining with the Sonoma County Commission on the Status of Women and the California Commission on the Status of Women in honoring the contributions of women, and urge all Californians to join in the celebration of International Women's Day on March 8, 1985; and be it further

Resolved, That the week of March 3 through 9 be designated as Women's History Week; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Chair of the Sonoma County Commission on the Status of Women and the Chair of the California State Commission on the Status of Women for distribution to appropriate organizations.

RESOLUTION CHAPTER 6

Senate Concurrent Resolution No. 6—Relative to the Joint Committee on Refugee Resettlement.

[Filed with Secretary of State February 26, 1985.]

WHEREAS, Since 1975, approximately 350,000 refugees have resettled in the State of California; and

WHEREAS, This number represents fully 40% of all refugees admitted into the entire United States since 1975; and

WHEREAS, California is becoming the largest implementor of United States foreign policy in the area of refugee resettlement; and

WHEREAS, The influx of refugees has created special needs and problems that must be recognized and addressed in order to achieve resettlement; and

WHEREAS, Addressing these problems requires a joint effort by a number of federal, of state and local, and of public and private entities; and

WHEREAS, The large influx continues to create a severe strain on

the state's system of service delivery in such areas as health, housing, social services, employment, and education; and

WHEREAS, Although the newcomers are primarily a federal responsibility it is in the best interests of the California taxpayers to ensure that the federal budget covers the costs associated with refugee resettlement in order to ensure a healthy environment for the newcomers to California and for the residents already within the borders of this state; and

WHEREAS, The Legislature has the responsibility for budgetary and policy concerns that impact upon those refugees and residents within our state's borders; and

WHEREAS, It is in the best interests of all citizens of the state for the Legislature to maintain strong leadership in impacting state policy and recommending federal policy; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Joint Committee on Refugee Resettlement is hereby established and authorized to do all of the following:

1. To conduct hearings in high-impact counties and develop recommendations to address concerns.

2. To develop policy recommendations on specific refugee-related issues for consideration by the Legislature as well as by the United States Congress.

3. To develop recommendations on better coordination of public and private resources for more effective assimilation of refugees into the communities of California.

4. To make recommendations on maximizing the federal moneys to which the state and local governments of California are entitled; and be it further

Resolved, That the committee shall consist of five Members of the Senate, appointed by the Committee on Rules thereof, and five Members of the Assembly, appointed by the Speaker thereof; and be it further

Resolved, That the committee and its members shall have and exercise all of the rights, duties, and powers conferred upon investigating committees and their members by the provisions of the Joint Rules of the Senate and Assembly as they are adopted and amended from time to time, which provisions are incorporated herein and made applicable to this committee and its members; and be it further

Resolved, That the committee has the following additional powers and duties:

1. To establish an advisory council to the joint committee which shall be composed of representatives of state and local government agencies and the refugee community, as well as private organizations who are directly involved with the resettlement, health, welfare, education, employment, and cultural adjustment of refugees.

2. To do any and all other things necessary or convenient to enable it fully and adequately to exercise its powers, perform its duties, and

accomplish the objects and purposes of this resolution; and be it further

Resolved, That the Senate Committee on Rules or the Assembly Committee on Rules may make such money available from the contingent funds under their direction and control as they deem necessary for expenses of the joint committee and its members and the advisory council to the joint committee; that any expenditure of money shall be made in compliance with policies set forth by the rules committee making the money available and shall be subject to approval of that rules committee; and that the joint committee shall, within 15 days of authorization and annually thereafter, present its annual budget to the Joint Rules Committee for its review and comment; and be it further

Resolved, That the committee is authorized to act during this session of the Legislature, including any recess, until the end of the 1985–86 Regular Session, on which date the committee shall terminate.

RESOLUTION CHAPTER 7

Senate Concurrent Resolution No. 9—Relative to the Joint Committee on Science and Technology.

[Filed with Secretary of State February 26, 1985]

WHEREAS, California is the nation's preeminent center of scientific research and technology development; and

WHEREAS, The continued growth and vitality of technology-based industries is critical to California's economy; and

WHEREAS, Competition from other nations threatens to erode California's technological advantage; and

WHEREAS, The future of high technology industries in California is directly affected by the quality of education and research in California's schools and universities; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That:

(a) The Joint Committee on Science and Technology is hereby created, authorized, and directed to investigate, study, and analyze the following:

(1) Ways to preserve and stimulate the growth of high technology industries in California.

(2) The need to increase the quality of math and science instruction in public schools.

(3) Methods to maintain and enhance the high quality of scientific research in California's public universities.

(4) Problems related to capital formation and expanding investments in new industries.

(5) Government regulations and tax policies which affect the growth and emergence of high technology industries.

(6) The activities of state government agencies which relate to the growth and development of technology-based industries in California.

(b) The committee shall consist of three Members of the Senate appointed by the Committee on Rules thereof, and three Members of the Assembly appointed by the Speaker of the Assembly.

(c) The committee shall have the following additional powers and duties:

(1) All of the rights, duties, and powers conferred upon investigating committees and their members by the provisions of the Joint Rules of the Senate and Assembly as they are adopted and amended from time to time, which provisions are incorporated herein and made applicable to the committee and its members.

(2) To contract, subject to the Joint Rules, with such other agencies, public or private, as it deems necessary for the rendition and affording of those services, facilities, studies, and reports to the committee as will best assist it to carry out the purposes for which it is created.

(3) To do any and all other things necessary or convenient to enable it fully and adequately to exercise its powers, perform its duties, and accomplish the objects and purposes of this resolution.

(d) The Senate Rules Committee or Assembly Rules Committee may make such money available from the contingent funds under their direction and control as they deem necessary for expenses of the joint committee and its members. Any expenditure of money shall be made in compliance with policies set forth by the rules committee making the money available and shall be subject to approval of that rules committee. The joint committee shall, within 15 days of authorization and annually thereafter, present its annual budget to the Joint Rules Committee for its review and comment.

(e) The Joint Committee on Science and Technology shall be terminated on January 30, 1987.

RESOLUTION CHAPTER 8

Senate Concurrent Resolution No. 13—Relative to income tax deferral of employee contributions of legislative employees to public retirement systems.

[Filed with Secretary of State February 26, 1985.]

WHEREAS, Section 414 (h) (2) of the Internal Revenue Code allows contributions to a pension plan, although designated under the plan as employee contributions, when paid by the employer in lieu of contributions paid by the employee, under circumstances in

which the employee does not have the option of choosing to receive the contributed amounts directly instead of having them paid by the employer, to be excluded, for federal income tax purposes, from the gross income of the employee until these amounts are distributed or made available to the employee (California conforms to that law for state income tax purposes); and

WHEREAS, Implementation of Section 414 (h) (2) of the Internal Revenue Code will result in a reduction of employee wages only for income tax purposes; and

WHEREAS, The following definitions apply for the purpose of implementing Section 414 (h) (2) of the Internal Revenue Code pursuant to this resolution:

(A) "Affected employees" means those employees of the Senate and Assembly of the State of California and of the Office of the Auditor General, the Office of the Legislative Analyst, and the Joint Rules Committee and those officers who are legislative statutory officers as defined by Section 9350.55 of the Government Code, who elect to become members of the retirement system.

(B) "Employee contributions" means those contributions to the retirement system which are deducted from the salary of employees and are credited to individual employees' accounts or required as a condition of obtaining benefits under the retirement system.

(C) "Employer" means the Senate and Assembly of the State of California and the Office of the Auditor General, the Office of the Legislative Analyst, and the Joint Rules Committee.

(D) "Gross income" means the total compensation paid to affected employees by the Legislature of the State of California, as defined in the Internal Revenue Code and rules and regulations established by the Internal Revenue Service.

(E) "Retirement system" means the Public Employees' Retirement System or the Legislators' Retirement System of the State of California.

(F) "Wages" means the salary paid to a hired person for his or her time worked or output of production; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature of the State of California shall make employee contributions on behalf of affected employees and those contributions shall be treated as employer contributions in determining federal and state income tax under the Internal Revenue Code and the Revenue and Taxation Code. Those contributions shall be made in lieu of employee contributions. The wages of affected employees shall be reduced, solely for income tax purposes, by the amount of employee contributions made by the employer. The employee contributions shall be paid from the same source of funds as used in paying the wages of affected employees. Employee contributions made by the employer shall be treated for all purposes other than state and federal income taxation in the same manner and to the same extent as employee contributions made prior to the operative date of this resolution.

This resolution shall become operative on the 61st day following its adoption; and be it further

Resolved, That the Secretary of the Senate shall transmit a copy of this resolution to the Legislators' Retirement System and the Public Employees' Retirement System.

RESOLUTION CHAPTER 9

Senate Concurrent Resolution No. 3—Relative to the Joint Rules.

[Filed with Secretary of State March 5, 1985.]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the following rules be adopted as the Temporary Joint Rules of the Senate and Assembly for the 1985–86 Regular Session.

Standing Committees

1. Each house shall appoint such standing committees as the business of the house may require, the committees, the number of members, and the manner of selection to be determined by the rules of each house.

Joint Meeting of Committees

3. Whenever any bill has been referred by the Senate to one of its committees, and the same or a like bill has been referred by the Assembly to one of its committees, the chairmen or chairwomen of the respective committees, when in their judgment the interests of legislation or the expedition of business will be better served thereby, shall arrange for a joint meeting of their committees for the consideration of such bill.

Effect of Adoption of Joint Rules

3.5. The adoption of the Joint Rules for any extraordinary session shall not be construed as modifying or rescinding the Joint Rules of the Senate and Assembly for any previous session, nor as affecting in any way the status or powers of the committees created by those rules.

Definition of Word Bill

4. Whenever the word "bill" is used in these rules, it shall include constitutional amendments, resolutions ratifying proposed amendments to the United States Constitution, and resolutions

calling for constitutional conventions.

Concurrent and Joint Resolutions

5. Concurrent resolutions relate to matters to be treated by both houses of the Legislature.

Joint resolutions are those which relate to matters connected with the federal government.

Resolutions Treated as Bills

6. Concurrent and joint resolutions, other than resolutions ratifying proposed amendments to the United States Constitution and resolutions calling for constitutional conventions, shall be treated in all respects as bills except as follows:

(a) They shall be given only one formal reading in each house.

(b) They shall not be deemed bills within the meaning of subdivision (a) of Section 8 of Article IV of the Constitution.

(c) They shall not be deemed bills for the purposes of Rules 10.8, 53, 55, 56, and 61, and subdivisions (a) and (c) of Rule 54 and subdivisions (a) and (b) of Rule 62.

(d) They shall not, except for those relating to voting procedures on the floor or in committee, be deemed bills for the purposes of subdivision (c) of Rule 62.

PREPARATION AND INTRODUCTION OF BILLS

Title of Bill

7. The title of every bill introduced shall convey an accurate idea of the contents of the bill and shall be indicative of the scope of the act and the object to be accomplished. In amending a code section, the mere reference to the section by number shall not be deemed sufficient.

Division of Bill Into Sections

8. A bill amending more than one section of an existing law shall contain a separate section for each section amended.

Bills which are not amendatory of existing laws shall be divided into short sections, where this can be done without destroying the sense of any particular section, to the end that future amendments may be made without the necessity of setting forth and repeating sections of unnecessary length.

Digest of Bills Introduced

8.5. No bill shall be introduced unless it is contained in a cover attached by the Legislative Counsel and unless it is accompanied by

a digest, prepared and attached to the bill by the Legislative Counsel, showing the changes in the existing law which are proposed by the bill. No bill shall be printed where the body of the bill or the Legislative Counsel's Digest has been altered, unless the alteration has been approved by the Legislative Counsel. If any bill is presented to the Secretary of the Senate or Chief Clerk of the Assembly for introduction, which does not comply with the foregoing requirements of this rule, the Secretary or Chief Clerk shall return it to the member who presented it. The digest shall be printed on the bill as introduced, commencing on the first page thereof.

Digest of Bills Amended

8.6. Whenever a bill is amended in either house, the Secretary of the Senate or the Chief Clerk of the Assembly, as the case may be, shall request the Legislative Counsel to prepare an amended digest and cause it to be printed on the first page of the bill as amended. The digest shall be amended to show changes in the existing law which are proposed by the bill as amended with any material changes in the digest indicated by the use of appropriate type.

Errors in Digest

8.7. If a material error in a printed digest referred to in Rule 8.5 or 8.6 is brought to the attention of the Legislative Counsel, he shall prepare a corrected digest which shall show the changes made in the digest as provided in Rule 10 for amendments to bills. He shall deliver the corrected digest to the Secretary of the Senate or the Chief Clerk of the Assembly, as the case may be. If the correction warrants it in the opinion of the President pro Tempore of the Senate or the Speaker of the Assembly, a corrected print of the bill as introduced shall be ordered with the corrected digest printed thereon.

Bills Amending Title 9 of the Government Code

8.8. A member who is the first-named author of a bill which would amend, add, or repeal any provision of Title 9 (commencing with Section 81000) of the Government Code, upon introduction or amendment of such bill in either house shall notify the Chief Clerk of the Assembly or the Secretary of the Senate, as the case may be, of the nature of such bill. Thereafter, the Chief Clerk of the Assembly or the Secretary of the Senate shall deliver a copy of such bill as introduced or amended to the Fair Political Practices Commission pursuant to Section 81012 of the Government Code.

Restrictions as to Amendments

9. A substitute or amendment must relate to the same subject as the original bill, constitutional amendment, or resolution under consideration. No amendment shall be in order when all that would be done to the bill is the addition of a coauthor or coauthors, unless the Rules Committee of the house in which such an amendment is to be offered grants prior approval.

Changes in Existing Law to Be Marked by Author

10. In a bill amending or repealing a code section or a general law, any new matter shall be underlined and any matter to be omitted shall be in type bearing a horizontal line through the center and commonly known as "strikeout" type. When printed the new matter shall be printed in italics, and the matter to be omitted shall be printed in "strikeout" type.

In any amendment to a bill which sets out for the first time a section being amended or repealed, any new matter to be added and any matter to be omitted shall be indicated by the author and shall be printed in the same manner as though the section as amended or repealed were a part of the original bill and was being printed for the first time.

When an entire code is repealed as part of a codification or recodification or when an entire title, part, division, chapter, or article of a code is repealed, the sections comprising such code, title, part, division, chapter, or article shall not be set forth in the bill or amendment in strikeout type.

Rereference to Fiscal and Rules Committees

10.5. Bills shall be rereferred to the fiscal committee of each house when they would do any of the following:

(1) Appropriate money.

(2) Result in substantial expenditure of state money by: (a) imposing new responsibilities on the state or (b) imposing new or additional duties on a state agency or (c) liberalizing any state program, function, or responsibility.

(3) Result in a substantial loss of revenue to the state.

(4) Result in substantial reduction of expenditures of state money by reducing, transferring, or eliminating any existing responsibilities of any state agency, program, or function.

Concurrent and joint resolutions shall be rereferred to the fiscal committee of each house when they contemplate any action which would involve any of the following:

(1) Any substantial expenditure of state money.

(2) Any substantial loss of revenue to the state.

The above requirements do not apply to bills or concurrent resolutions which contemplate the expenditure or allocation of

contingent funds.

A bill which assigns a study to the Joint Legislative Budget Committee or to the Legislative Analyst shall be rereferred to the respective rules committees. Before the committee shall act upon such bill, it shall obtain from the Joint Legislative Budget Committee an estimate of the amount required to be expended to make the study.

Heading of Bills

10.7. No bill shall indicate in its heading or elsewhere that it was introduced at the request of a state agency or officer or any other person. No bill shall contain the words "By request" or words of similar import.

Consideration of Bills

10.8. The limitation contained in subdivision (a) of Section 8 of Article IV of the Constitution may be dispensed with as follows

(a) A written request for such dispensation entitled "Request to Consider and Act on Bill Within 30 Calendar Days" shall be filed with the Chief Clerk of the Assembly or the Secretary of the Senate, as the case may be, printed in the Journal and transmitted to the Committee on Rules of the appropriate house.

(b) The Committee on Rules of the Assembly or Senate, as the case may be, shall determine whether there exists an urgent need for dispensing with the 30-calendar-day waiting period following the bill's introduction.

(c) If the Committee on Rules recommends that the waiting period be dispensed with, the member may offer a resolution, without further reference thereof to committee, authorizing hearing and action upon the bill before the 30 calendar days have elapsed. The adoption of the resolution shall require an affirmative recorded vote of three-fourths of the elected members of the house in which the resolution is presented.

Printing of Amendments

11. (a) All bills amended by either house shall be immediately reprinted. Except as otherwise provided in subdivision (b), if new matter is added by the amendment, the new matter shall be printed in italics in the printed bill; if matter is omitted, the matter to be omitted shall be printed in strikeout type. When a bill is amended in either house, the first or previous markings shall be omitted.

(b) If amendments to a bill, including the report of a committee on conference, are adopted that omit the entire contents of the bill, the matter omitted need not be reprinted in the amended version of the bill. Instead, the Secretary of the Senate or the Chief Clerk of the Assembly, as the case may be, may select any such amended bill

and cause to be printed a brief statement to appear after the last line of the amended bill identifying which previously printed version of the bill contains the complete text of the omitted matter.

Manner of Printing Bills

12. The State Printer shall observe the directions of the Joint Rules Committee in printing all bills, constitutional amendments, and concurrent and joint resolutions.

Distribution of Legislative Publications

13. The Secretary of the Senate and the Chief Clerk of the Assembly shall order a sufficient number of bills and legislative publications as may be necessary for legislative requirements.

No complete list of bills shall be delivered except upon payment therefor of such sum as may be fixed by the Joint Rules Committee for any regular or extraordinary session. No more than one copy of any bill or other legislative publication, nor more than a total of 100 bills or other legislative publications during a session, shall be distributed free to any person, office, or organization. The limitations imposed by this paragraph do not apply to Members of the Legislature, the President of the Senate, the Secretary of the Senate and the Chief Clerk of the Assembly for the proper functioning of their respective houses; the Legislative Counsel Bureau; Attorney General's office; Secretary of State's office; Controller's office; Governor's office; the Clerk of the Supreme Court; the clerk of the court of appeal for each district; the Judicial Council; the California Law Revision Commission; the State Library; the Library of Congress; the libraries of the University of California at Berkeley and at Los Angeles; and accredited members of the press. The State Printer shall fix the cost of such bills and publications, including postage, and such moneys as may be received by him shall, after deducting the cost of handling and mailing, be remitted on the first day of each month, one-half each to the Secretary of the Senate and the Chief Clerk of the Assembly for credit to legislative printing. Legislative publications heretofore distributed through the Bureau of Documents shall be distributed through the Bill Room. Unless otherwise provided for, the total number of each bill to be printed shall not be more than 2,500.

Summary Digest and Legislative Index

13.1. The Legislative Counsel shall provide for the periodic publication of a cumulative Legislative Index which shall include tables of sections affected by pending legislation. The State Printer shall print the Legislative Index in such quantities, and at such times, as are determined by the Secretary of the Senate and the Chief Clerk of the Assembly. The costs of such printing shall be paid from the

legislative printing appropriation.

13.3. The Legislative Counsel shall compile and prepare for publication a summary digest of legislation passed at each regular and extraordinary session, which digest shall be prepared in a form suitable for inclusion in the publication of statutes. The digest shall be printed as a separate legislative publication on the order of the Joint Rules Committee and may be made available to the public in such quantities and at such prices as the Joint Rules Committee may determine.

13.5. The Legislative Counsel shall prepare for publication from time to time a cumulative statutory record. The statutory record shall be printed as a legislative publication on the order of the Secretary of the Senate or the Chief Clerk of the Assembly.

OTHER LEGISLATIVE PRINTING

Printing of the Daily Journal

14. The State Printer shall print in such quantity as directed by the Secretary of the Senate and the Chief Clerk of the Assembly, copies of the journal of each day's proceedings of each house. At the end of the session he shall also print, as directed by the Secretary of the Senate and the Chief Clerk of the Assembly a sufficient number of copies properly paged after being corrected and indexed by the Secretary of the Senate and the Chief Clerk of the Assembly, to bind in book form as the journal of the respective houses of the Legislature.

What Shall Be Printed in the Journal

15. The following shall always be printed in the journal of each house:

(a) Messages from the Governor and messages from the other house, and the titles of all bills, joint and concurrent resolutions, and constitutional amendments when introduced in, offered to, or acted upon by the house.

(b) Every vote taken in the house, and a statement of the contents of each petition, memorial, or paper presented to the house.

(c) A true and accurate account of the proceedings of the house, when not acting as a Committee of the Whole.

Printing of the Daily File

16. A daily file of bills ready for consideration shall be printed each day for each house when the Legislature is not in joint recess except days when a house does not meet.

Printing of History

17. Each house shall cause to be printed, once each week, a complete history of all bills; constitutional amendments; and concurrent, joint, and house resolutions originating in, considered, or acted upon by the respective houses and committees thereof. A regular form shall be prescribed by the Secretary of the Senate and the Chief Clerk of the Assembly. Such history shall show the action taken upon each measure up to and including the legislative day preceding its issuance. Except for periods when the houses are in joint recess, for each day intervening there shall be printed a daily history showing the consideration given to or action taken upon any measure since the issuance of the complete history.

Authority for Printing Orders

18. The State Printer shall not print for use of either house nor charge to legislative printing any matter other than provided by law or by the rules, except upon a written order signed by the Secretary of the Senate, on behalf of the Senate, or the Chief Clerk of the Assembly or other person authorized by the Assembly, on behalf of the Assembly. Persons authorized to order printing under this rule may, when necessity requires it, order certain matter printed in advance of the regular order, by the issuance of a rush order.

The Secretary of the Senate, on behalf of the Senate, and the Chief Clerk of the Assembly or other person authorized by the Assembly, on behalf of the Assembly, are hereby authorized and directed to order and distribute for the members stationery and legislative publications for which there is a demand, and, subject to the rules of their respective houses, to approve the bills covering such orders. All bills for printing must be presented by the State Printer within 30 days after the completion of the printing.

RECORD OF BILLS

Secretary and Chief Clerk to Keep Records

19. The Secretary of the Senate and the Chief Clerk of the Assembly shall keep a complete and accurate record of every action taken by the Senate and Assembly on every bill.

Secretary and Chief Clerk Shall Endorse Bills

20. The Secretary of the Senate and the Chief Clerk of the Assembly shall endorse on every original or engrossed bill a statement of any action taken by the Senate or Assembly concerning such bill.

ACTION IN ONE HOUSE ON BILL TRANSMITTED FROM THE OTHER

After a Bill Has Been Passed by the Senate or Assembly

21. When a bill has been passed by either house it shall be transmitted promptly to the other unless a motion to reconsider or a notice of motion to reconsider has been made or it is held pursuant to some rule or order of the house.

The procedure of referring bills to committees shall be determined by the respective houses.

Messages to Be in Writing Under Proper Signatures

22. Notice of the action of either house to the other shall be in writing and under the signature of the Secretary of the Senate or the Chief Clerk of the Assembly from which such message is to be conveyed. A receipt shall be taken from the officer to whom such message is delivered.

Uncontested Bills

22.1. Each standing committee may report an uncontested bill out of committee with the recommendation that it be placed on the consent calendar. The Secretary of the Senate and the Chief Clerk of the Assembly shall provide to each committee chairman or chairwoman appropriate forms for such report. As used in this rule, "uncontested bill" means a bill, except a revenue measure or a measure as to which the 30-day limitation prescribed by subdivision (a) of Section 8 of Article IV of the Constitution has been dispensed with, which: (a) receives a do-pass or do-pass-as-amended recommendation from the committee to which it is referred, by unanimous vote of the members present provided a quorum is present; and (b) has no opposition expressed by any person present at the committee meeting with respect to the final version of the bill as approved by the committee; and (c) prior to final action by the committee has been requested, by the author, to be placed on the consent calendar.

Consent Calendar

22.2. Following their second reading and the adoption of any committee amendments thereto, all bills certified by the committee chairman or chairwoman as uncontested bills shall be placed by the Secretary of the Senate or the Chief Clerk of the Assembly on the consent calendar, and shall be known as "consent calendar bills." Any consent calendar bill which is amended from the floor shall cease to be a consent calendar bill and shall be replaced on the third reading file. Upon objection of any member to the placement or

retention of any bill on the consent calendar, such bill shall cease to be a consent calendar bill and shall be replaced on the third reading file. No consent calendar bill shall be considered for adoption until the second legislative day following the day of its placement on the consent calendar.

Consideration of Bills on Consent Calendar

22.3. Bills on the consent calendar are not debatable, except that the President of the Senate or the Speaker of the Assembly shall allow a reasonable time for questions from the floor and shall permit the proponents of such bills to answer such questions. Immediately prior to voting on the first bill on the consent calendar, the President of the Senate or the Speaker of the Assembly shall call to the attention of the members the fact that the next rollcall will be the rollcall on the first bill on the consent calendar.

The consent calendar shall be considered as the last order of business on the daily file.

PASSAGE AND ENROLLING OF BILLS

Procedure on Defeat of More Than Majority Bill

23.5. Whenever a bill containing a section or sections requiring for passage an affirmative recorded vote of more than 21 votes in the Senate and more than 41 votes in the Assembly is being considered for passage and the urgency clause, if the bill is an urgency bill, or the bill, in any case, fails to receive the necessary votes to make all sections effective, no further action may be taken on the bill; provided that an amendment to remove all sections requiring the higher vote for passage from the bill shall be in order prior to consideration of further business. If the amendment is adopted, the bill shall be reprinted to reflect such amendment. When the bill is reprinted, it shall be returned to the same place on the file as when it failed to receive the necessary votes.

Enrollment of Bill After Passage

24. After a bill has passed both houses it shall be printed in enrolled form, omitting symbols indicating amendments, and shall be compared by the Engrossing and Enrolling Clerk and the proper committee of the house where it originated to determine that it is in the form approved by the houses. The enrolled bill shall thereupon be signed by the Secretary of the Senate and Chief Clerk of the Assembly and, except as otherwise provided by these rules, presented without delay to the Governor. The committee shall report the time of presentation of the bill to the Governor to the house and the record shall be entered in the journal. After enrollment and signature by the officers of the Legislature,

constitutional amendments, and concurrent and joint resolutions shall be filed without delay in the office of the Secretary of State and the time of filing shall be reported to the house and the record entered in the journal.

AMENDMENTS AND CONFERENCES

Amendments to Amended Bills Must Be Attached

25. Whenever a bill or resolution which shall have been passed in one house shall be amended in the other, it shall immediately be reprinted as amended by the house making such amendment or amendments. Two copies of such amendment or amendments shall be attached to the bill or resolution so amended, and endorsed "adopted" and such amendment or amendments, if concurred in by the house in which such bill or resolution originated, shall be endorsed "concurred in," and such endorsement shall be signed by the Secretary or Assistant Secretary of the Senate, or the Chief Clerk or Assistant Clerk of the Assembly, as the case may be; provided, however, that an amendment to the title of a bill adopted after the passage of such bill shall not necessitate reprinting, but such amendment must be concurred in by the house in which such bill originated.

Amendments to Concurrent and Joint Resolutions

25.5. When a concurrent or joint resolution is amended, and the only effect of the amendments is to add coauthors, the joint or concurrent resolution shall not be reprinted unless specifically requested by one of the added coauthors, but a list of the coauthors shall appear in the journal and history.

To Concur or Refuse to Concur in Amendments

26. In case the Senate amends and passes an Assembly bill, or the Assembly amends and passes a Senate bill, the Senate (if it be a Senate bill) or the Assembly (if it be an Assembly bill) must either "concur" or "refuse to concur" in the amendments. If the Senate concurs (if it be a Senate bill), or the Assembly concurs (if it be an Assembly bill), the Secretary or Chief Clerk shall notify the house making the amendments and the bill shall be ordered to enrollment.

Reference to Committee

26.5. Pursuant to Rule 26, whenever a bill is returned to its house of origin for a vote on concurrence in an amendment made in the other house, the Legislative Counsel shall promptly prepare and transmit to the Chief Clerk of the Assembly and the Speaker of the Assembly in the case of an Assembly bill, or to the Secretary of the

Senate and Chairman of the Senate Committee on Rules in the case of a Senate bill, a brief digest summarizing the effect of the amendment made in the other house. The Secretary or Chief Clerk shall cause the digest to be printed in the Daily File immediately following any reference to the bill covered by the digest. A motion to concur or refuse to concur in the amendment shall not be in order until such time as the Legislative Counsel's Digest has appeared in the file.

If the digest discloses that the amendment of the other house has made a substantial substantive change in the bill as first passed by the house of origin, the bill shall on motion of the Chairman of the Senate Committee on Rules, if it be a Senate bill, be referred to the Senate Committee on Rules for reference to an appropriate standing committee. If the bill is an Assembly bill it shall be referred by the Chief Clerk of the Assembly, with the approval of the Speaker, to the committee of first reference. If the Speaker, upon evaluation of the bill, determines that the committee of first reference is not an appropriate committee to hear the amended bill, the Speaker shall not approve referral to that committee, but shall instead refer the bill to the Assembly Committee on Rules for rereferral.

Upon receipt of such a bill, the committee may vote to recommend concurrence or nonconcurrence in the amendment or the committee may hold the bill. The committee shall be subject to all the requirements for procedure provided under Rule 62 for committees other than for committees of first referral, and such other requirements for normal committee procedure as the Assembly or Senate may separately provide in the standing rules of their respective houses.

Any of the provisions of this rule may be dispensed with regard to a particular bill in its house of origin upon an affirmative vote of a majority of the members of that house.

Concurring in Amendments Adding Urgency Section

27. When a bill which has been passed in one house is amended in the other by the addition of a section providing that the act shall take effect immediately as an urgency statute and is returned to the house in which it originated for concurrence in the amendment or amendments thereto, the procedure and vote thereon shall be as follows:

The presiding officer shall first direct that the urgency section be read and put to a vote. If two-thirds of the members elected to the house vote in the affirmative, the presiding officer shall then direct that the question of whether the house shall concur in the amendment or amendments shall be put to a vote. If two-thirds of all the members elected to the house vote in the affirmative, concurrence in the amendments shall be effective.

If the affirmative vote on either of such questions is less than two-thirds of all the members elected to such house, the effect is a

refusal to concur in the amendment or amendments, and the procedure thereupon shall be as provided in Rule 28.

When Senate or Assembly Refuse to Concur

28. If the Senate (if it be a Senate bill) or the Assembly (if it be an Assembly bill) refuses to concur in amendments to the bill made by the other house, and when the other house has been notified of such refusal to concur, a conference committee shall be appointed for each house in the manner prescribed by these rules. The Committee on Rules in the case of the Senate and the Speaker of the Assembly in the case of the Assembly shall each appoint a committee of three on conference, and the Secretary of the Senate or the Chief Clerk of the Assembly shall immediately notify the other house of the action taken.

Committee on Conference

28.1. The Senate Committee on Rules and the Speaker of the Assembly, in appointing a committee on conference, shall each select two members from those voting with the majority on the point about which the difference has arisen, and the other member from the minority, in the event there is a minority vote.

Whether a member has voted with the majority or minority on the point about which the difference has arisen is determined by his vote on the appropriate rollcall, as follows:

(1) In the Assembly—

(a) The rollcall on the question of final passage of a Senate bill amended in the Assembly when the Senate has refused to concur with the Assembly amendments.

(b) The rollcall on the question of concurrence with Senate amendments to an Assembly bill.

(2) In the Senate—

(a) The rollcall on the question of final passage of an Assembly bill amended in the Senate when the Assembly has refused to concur with the Senate amendments.

(b) The rollcall on the question of concurrence with Assembly amendments to a Senate bill.

Meetings and Reports of Committees on Conference

29. The first Senator named on the conference committee shall act as chairman or chairwoman of the committee from the Senate, and the first Member of the Assembly named on such committee shall act as chairman or chairwoman of the committee from the Assembly. The chairman or chairwoman of the committee on conference for the house of origin of the bill shall arrange the time and place of meeting of the conference committee and shall prepare or direct the preparation of reports. It shall require an affirmative vote of not less

than two of the Assembly Members and two of the Senate Members constituting the committee on conference to agree upon a report, and the report shall be submitted to both the Senate and the Assembly. The committee on conference shall report to both the Senate and the Assembly. Such report is not subject to amendment, and if either house refuses to adopt such report, the conferees shall be discharged and other conferees appointed; provided, however, that no more than three different conference committees shall be appointed on any one bill. No member who has served on a committee on conference shall be appointed a member of another committee on conference on the same bill. It shall require the same affirmative recorded vote to adopt any conference report as required by the Constitution upon the final passage of the bill affected by such report. It shall require an affirmative recorded vote of two-thirds of the entire elected membership of each house to adopt any conference report affecting any bill which contains an item or items of appropriation which are subject to subdivision (d) of Section 12 of Article IV of the Constitution. The report of a conference committee shall be in writing, and shall have affixed thereto the signatures of each Senator and each Member of the Assembly consenting to the report. Space shall also be provided where a member of a conference committee may indicate his dissent in the committee's findings. Any dissenting member may have attached to a conference committee report a dissenting report which shall not exceed, in length, the majority committee report. A copy of any amendments proposed in the majority report shall be placed on the desk of each member of the house before it is acted upon by the house.

The vote on concurrence or upon the adoption of such conference report shall be deemed the vote upon final passage of such bill.

Conference Committees

29.5. (a) All meetings of any conference committee on the Budget Bill shall be open and readily accessible to the public.

No conference committee on any bill may meet, consider, or act on the subject matter of the bill except in a meeting that is open and readily accessible to the public; unless the action is on a report determined by the Legislative Counsel to be nonsubstantive. The Legislative Counsel shall examine each proposed report and shall note upon the face of the report that the amendments proposed are "substantive" or "nonsubstantive" as the case may be.

The chairman or chairwoman of the conference committee of each house shall give notice to the file clerk of their respective houses of the time and place of such meeting. Notice of each public meeting shall be published in the file of each house one calendar day prior to the meeting, except that such notice shall not be required for a meeting of a conference committee on the Budget Bill. When the provisions of this subdivision are waived with respect to a meeting

of any public conference committee, and when there is a meeting of a conference committee on the Budget Bill, every effort shall be made to inform the public that such a meeting has been called. When the provisions of this subdivision have been waived with respect to meeting of any public conference committee, the chairman or chairwoman of the conference committee of each house shall immediately notify the chairman or chairwoman of the policy committee of their respective houses that considered the bill in question of the waiver, and of the time and place of the meeting.

(b) The first committee on conference of the Budget Bill, if such a committee is appointed, shall submit its report to each house no later than 15 days after the Budget Bill has been passed by both houses. If such report is not submitted by such date, the conference committee shall be deemed to have reached no agreement and shall so inform each house pursuant to Rule 30.7.

(c) A committee on conference of the Budget Bill shall only consider differences between the Assembly version of the Budget Bill as passed by the Assembly and the Senate version of the Budget Bill as passed by the Senate and shall not approve any item of expenditure nor control which exceeds that contained in one of the two versions before the conference committee.

(d) No conference committee on any bill, other than the Budget Bill, shall approve any substantial financial provision in any bill if such financial provision has not been heard by the fiscal committee of each house, nor shall any such conference committee approve substantial policy changes which have not been heard by the policy committee of each house.

(e) No waiver of the one calendar day file notice requirement of subdivision (a) shall be effective for longer than three calendar days.

CONFERENCE COMMITTEE REPORTS

30. Upon submission of the report of a committee on conference, if the report recommends that the bill be further amended, the bill shall be reprinted incorporating the amendments recommended by the conference committee. The consideration of the report of a committee on conference shall not be in order until the bill in the form recommended by the report of the committee on conference has both been in print and been noticed in the Daily File for not less than one legislative day.

If the conference committee's report recommends only that the amendments of the Senate or the Assembly "be concurred in", consideration of the report shall be in order at any time, and reprinting of the bill shall not be required, but notice shall appear in the Daily File for not less than one legislative day.

No conference committee report shall be in order unless it has been received by the Secretary of the Senate and the Chief Clerk of the Assembly at least three calendar days preceding the scheduled commencement of the summer, interim, or final recesses of the

Legislature.

The provisions of this rule may be suspended as to any particular conference committee report by a two-thirds vote of the membership of either house.

This rule shall not apply to a report of a committee on conference on the Budget Bill.

Conference Committee Reports on Urgency Statutes

30.5. When the report of a committee on conference recommends the amendment of a bill by the addition of a section providing that the act shall take effect immediately as an urgency statute, the procedure and the vote thereon shall be as follows:

The presiding officer shall first direct that the urgency section be read and put to a vote. If two-thirds of the members elected to the house vote in the affirmative, the presiding officer shall then direct that the question of whether the house shall adopt the report of the committee on conference shall be put to a vote. If two-thirds of the members elected to the house vote in the affirmative, the adoption of the report and the amendments proposed thereby shall be effective.

If the affirmative vote on either of such questions is less than two-thirds of the members elected to such house, the effect is a refusal to adopt the report of the committee on conference.

Failure to Agree on Report

30.7. A conference committee may find and determine that it is unable to submit a report to the respective houses, upon the affirmative vote to that effect of not less than two of the Assembly Members and not less than two of the Senate Members constituting the committee. Such finding may be submitted to the Chief Clerk of the Assembly and the Secretary of the Senate in the form of a letter from the chairman of the committee on conference for the house of origin of the bill, containing the signatures of the members of the committee consenting to the finding and determination that the committee is unable to submit a report. The Chief Clerk of the Assembly and the Secretary of the Senate, upon being notified that a conference committee is unable to submit a report, shall so inform each house, whereupon the conferees shall be discharged and other conferees appointed, in accordance with the provisions of Rule 29.

MISCELLANEOUS PROVISIONS

Authority When Rules Do Not Govern

31. All relations between the houses which are not covered by these rules shall be governed by Mason's Manual.

Press Rules

32. (a) Persons desiring privileges of accredited press representatives shall make application to the Joint Rules Committee. Such application shall constitute compliance with any provisions of the Rules of the Assembly or the Senate with respect to registration of news correspondents. Applications shall state in writing the names of the daily newspapers, periodic publications, news associations, or radio or television stations by which they are employed, and what other occupations or employment they may have, if any; and they shall further declare that they are not employed, directly or indirectly, to assist in the prosecution of the legislative business of any person, corporation, or association, and will not become so employed while retaining the privilege of accredited press representatives.

(b) The applications required by subdivision (a) of this rule shall be authenticated in a manner that shall be satisfactory to the Standing Committee of the Capitol Correspondents Association which shall see that occupation of seats and desks in the Senate and the Assembly Chambers is confined to bona fide correspondents of reputable standing in their business, who represent daily newspapers requiring a daily file of legislative news, qualified periodic publications, or news associations requiring daily telegraphic or radio or television service on legislative news. It shall be the duty of the standing committee at its discretion, to report violation of accredited press privileges to the Speaker of the Assembly, or to the Senate Committee on Rules, and pending action thereon the offending correspondent may be suspended by the standing committee.

(c) Except as otherwise provided in this subdivision, persons engaged in other occupations whose chief attention is not given to newspaper correspondence or to news associations requiring telegraphic or radio or television service shall not be entitled to the privileges accorded accredited press representatives; and the press list in the Handbook of the California Legislature and the Senate and Assembly Histories shall be a list only of persons authenticated by the standing committee of correspondents. Accreditation may be granted to bona fide correspondents of reputable standing employed by periodic publications of general circulation, providing that the applicants are employed on a full-time basis in the capitol area preparing articles dealing with state government and politics and that their publications are not organs or organizations involved in legislative advocacy.

(d) The press seats and desks in the Senate and Assembly Chambers shall be under the control of the standing committee of correspondents, subject to the approval and supervision of the Speaker of the Assembly and the Senate Committee on Rules. Press cards shall be issued by the President of the Senate and the Speaker of the Assembly only to correspondents properly accredited in accordance with the provisions of this rule.

(e) One or more rooms shall be assigned for the exclusive use of correspondents during the legislative session, which rooms shall be known as the Press Room. The Press Room shall be under the control of the Chief of the Bureau of Buildings and Grounds; provided, that all rules and regulations shall be approved by the Senate Committee on Rules and the Speaker of the Assembly.

(f) No accredited member of the Capitol Correspondents Association shall, for compensation, perform any service for state constitutional officers or members of their staffs, for state agencies, for the Legislature, for candidates for state office, or for a state officeholder, or for any person registered or performing as a legislative advocate.

(g) An accredited member of the association who violates subdivision (a) or (f) of this rule shall be subject to the following penalties:

(1) For the first offense, the Standing Committee of the Capitol Correspondents Association shall send a letter of admonition to the offending member, his employer, and the Joint Rules Committee. The letter shall state the nature of the member's rule violation and shall warn of an additional penalty for a second offense.

(2) For a second offense, the Standing Committee of the Capitol Correspondents Association shall recommend to the Joint Rules Committee that the member's accreditation be suspended or revoked and that he lose all rights and privileges attached thereto. The Standing Committee of the Capitol Correspondents Association shall also dismiss the member from the association.

Any member of the Standing Committee of the Capitol Correspondents Association may propose that the committee make an inquiry to determine if an association member has violated subdivision (a) or (f) of this rule. Upon a majority vote of the Standing Committee of the Capitol Correspondents Association, an inquiry shall be made.

Upon receipt of a signed, written notice from any association member of his belief that another association member may have violated subdivision (a) or (f) of this rule, the Standing Committee of the Capitol Correspondents Association shall commence an inquiry into the possible violation.

If the Standing Committee of the Capitol Correspondents Association determines by majority vote that an association member has broken an association rule, it shall inform the member of its finding. Within two weeks of notification, the member may request a meeting of the membership. If the member makes such a request, the Standing Committee of the Capitol Correspondents Association shall promptly schedule a meeting at the earliest possible time. After hearing the member and the committee review the circumstances of the alleged violation, the membership may, by majority vote, nullify the finding of the Standing Committee of the Capitol Correspondents Association. If nullification does not occur, the Standing Committee of the Capitol Correspondents Association shall

impose immediately the appropriate penalty.

Dispensing With Joint Rules

33. No joint rule shall be dispensed with except by a vote of two-thirds of each house, except as otherwise provided in these rules. If either house shall violate a joint rule, a question of order may be raised in the other house and decided in the same manner as in the case of the violation of the rules of such house; and if it shall be decided that the joint rules have been violated, the bill involving such violations shall be returned to the house in which it originated, and such disputed matter be considered in like manner as in conference committee.

Opinions of Legislative Counsel

34. Whenever the Legislative Counsel issues an opinion to any person other than the first-named author analyzing the constitutionality, operation, or effect of a bill or other legislative measure which is then pending before the Legislature or of any amendment made or proposed to be made to such bill or measure, he is authorized and instructed to deliver two copies of the opinion to the first-named author as promptly as feasible after the delivery of the original opinion and also to deliver a copy to any other author of the bill or measure who so requests. A copy of any letter prepared by the Legislative Counsel for the sole purpose of advising a member of a conflict between two or more bills as to the sections of law being amended, repealed, or added shall be submitted to the chairman of the committee to which each such bill has been referred.

Resolutions Prepared by Legislative Counsel

34.1. Whenever the Legislative Counsel has been requested to draft a resolution commemorating or taking note of any event, or a resolution congratulating or expressing sympathy toward any person, and subsequently receives a similar request from another Member of the Legislature, he shall inform that requester and each subsequent requester that such a resolution is being, or has been, prepared, and he shall inform them of the name of the member for whom the resolution was, or is being, prepared.

Resolutions

34.2. A concurrent resolution, Senate resolution, or House resolution may be introduced to memorialize the death of a present or former state or federal elected official or a member of their immediate families. In all other instances, a resolution other than a concurrent resolution, as specified by the Committee on Rules of each house, or as provided by the Joint Rules Committee in those

cases which require that such resolution should emanate from both houses, shall be used for the purpose of commendation, congratulation, sympathy, or regret with respect to any person, group, or organization.

No concurrent resolution requesting the Governor to issue a proclamation shall be introduced without the prior approval of the Committee on Rules of the house in which the resolution is to be introduced.

Identical Drafting Requests

34.5. Whenever it shall come to the attention of the Legislative Counsel that a member has requested the drafting of a bill which will be substantially identical to one already introduced, he shall inform such member of that fact.

Expense of Members

35. As provided in Section 8902 of the Government Code, each Member of the Legislature is entitled to reimbursement for living expenses while required to be in Sacramento to attend a session of the Legislature, or while traveling to and from or in attendance at a committee meeting, or while attending to any legislative function or responsibility as authorized or directed by legislative rules or the Committee on Rules of the house of which he or she is a member at the same rate as may be established by the State Board of Control for other elected state officers. Each member shall be reimbursed for travel expenses incurred in traveling to and from a session of the Legislature, or when traveling to and from a meeting of a committee of which he or she is a member, or when traveling pursuant to any other legislative function or responsibility as authorized or directed by legislative rules or the Committee on Rules of the house of which he or she is a member at the rate prescribed by Section 8903 of the Government Code.

Expense allowances for Members of the Senate and Assembly shall be approved and certified to the Controller by the Secretary of the Senate, on behalf of the Senate, and the Chief Clerk of the Assembly or other person authorized by the Assembly Committee on Rules, on behalf of the Assembly, weekly or as otherwise directed by either house, and upon such certification the Controller shall draw his or her warrants in payment of the allowances to the respective members.

Investigating Committees

36. In order to expedite the work of the Legislature either house, or both houses jointly, may by resolution or statute provide for the appointment of committees to ascertain facts and to make recommendations as to any subject within the scope of legislative

regulation or control.

The resolution providing for the appointment of a committee shall state the purpose of the committee, and the scope of the subject concerning which it is to act and may authorize it to act either during sessions of the Legislature or, when such authorization may lawfully be made, after final adjournment.

In the exercise of the power granted by this rule, each committee may employ such clerical, legal, and technical assistants as may be authorized by: (a) the Joint Committee on Rules in the case of a joint committee, (b) the Senate Committee on Rules in the case of a Senate committee, or (c) the Assembly Committee on Rules in the case of an Assembly committee.

Except as otherwise provided herein for joint committees or by the Rules of the Senate or the Assembly for single house committees, each committee may adopt and amend such rules governing its procedure as may appear necessary and proper to carry out the powers granted and duties imposed under this rule. Such rules may include provisions fixing the quorum of the committee and the number of votes necessary to take action on any matter. With respect to all joint committees, a majority of the membership from each house constitutes a quorum and an affirmative vote of a majority of the membership from each house is necessary for the committee to take action.

Each such committee is authorized and empowered to summon and subpoena witnesses, require the production of papers, books, accounts, reports, documents, records, and papers of every kind and description, to issue subpoenas, and to take all necessary means to compel the attendance of witnesses and to procure testimony, oral and documentary.

Each member of such committees is authorized and empowered to administer oaths, and all of the provisions of Chapter 4 (commencing with Section 9400), Part 1, Division 2, Title 2 of the Government Code, relating to the attendance and examination of witnesses before the Legislature and the committees thereof, shall apply to such committees.

The Sergeant at Arms of the Senate or Assembly, or such other person as may be designated by the chairman or chairwoman of the committee, shall serve any and all subpoenas, orders, and other process that may be issued by the committee, when directed to do so by the chairman, chairwoman, or by a majority of the membership of the committee.

Every department, commission, board, agency, officer, and employee of the state government, including the Legislative Counsel and the Attorney General and their subordinates, and of every political subdivision, county, city, or public district of or in this state, shall give and furnish to these committees and to their subcommittees upon request such information, records, and documents as the committees deem necessary or proper for the achievement of the purposes for which each such committee was

created.

Each committee or subcommittee of either house in accordance with the rules of that respective house and each joint committee or subcommittee thereof, may meet at any time during the period in which it is authorized to act, either at the State Capitol, or at any other place in the State of California, in public or executive session, and do any and all things necessary or convenient to enable it to exercise the powers and perform the duties herein granted to it or accomplish the objects and purposes of the resolution creating it with the following exceptions:

(a) When the Legislature is not in joint recess:

(1) No committee or subcommittee of either house shall meet outside the State Capitol without the prior approval of the Senate Committee on Rules with respect to Senate committees and subcommittees and the Speaker of the Assembly with respect to Assembly committees and subcommittees.

(2) No committee or subcommittee of either house, other than a standing committee or subcommittee thereof, shall meet unless notice of such meeting has been printed in the daily file for four days prior thereto. This requirement may be waived by a majority vote of either house with respect to a particular bill.

(3) No joint committee or subcommittee thereof, other than the Joint Committees on Legislative Audit, Legislative Budget, Legislative Ethics, and Rules, shall meet outside the State Capitol without the prior approval of the Joint Rules Committee.

(4) No joint committee or subcommittee thereof, other than the Joint Committees on Legislative Audit, Legislative Budget, Legislative Ethics, and Rules, shall meet unless notice of such meeting has been printed in the daily file for four days prior thereto.

(b) When the Legislature is in joint recess each joint committee or subcommittee, other than the Joint Committees on Legislative Audit, Legislative Budget, Legislative Ethics, and Rules, shall notify the Joint Rules Committee at least two weeks prior to any such meeting.

(c) The requirements placed upon joint committees by subdivisions (a) and (b) of this rule may be waived where it is deemed necessary by the Joint Rules Committee.

Each such committee may expend such money as may be made available to it for such purpose but no committee shall incur any indebtedness unless money shall have been first made available therefor.

No living expenses shall be allowed in connection with legislative business for a day on which the member receives reimbursement for expenses while required to be in Sacramento to attend a session of the Legislature. The chairman or chairwoman of each committee shall audit and approve the expense claims of the members of the committee including claims for mileage in connection with attendance on committee business, or in connection with specific assignments by the committee chairman or chairwoman, but

excluding other types of mileage, and shall certify the amount approved to the Controller, and the Controller shall draw his warrants upon the certification of the chairman or chairwoman.

Subject to the rules of each house for the respective committees of each house, and subject to the joint rules for any joint committee, the chairman or chairwoman of any such committee may appoint subcommittees and chairmen or chairwomen thereof for the purpose of more expeditiously handling and considering matters referred to it, and such subcommittees and the chairmen or chairwomen thereof shall have all the powers and authority herein conferred upon the committee and its chairman or chairwoman. The chairman or chairwoman of such subcommittee shall audit the expense claims of the members of such subcommittees and other claims and the expenses incurred by it and shall certify the amount thereof to the chairman or chairwoman of the committee who shall, if he approves the same, certify the amount thereof to the Controller, and the Controller shall draw his warrant therefor upon such certification, and the Treasurer shall pay the same. Whenever such committee or any subcommittee thereof is authorized to leave the State of California in the performance of its duties, then such committee or subcommittee shall, while out of the state, have the same authority as if it were acting and functioning within the state, and the members thereof shall be reimbursed for expenses.

Notwithstanding any provision of this rule, if the standing rules of either house require that expense claims of committees for goods or services or pursuant to contracts or for expenses of employees or members of committees be audited or approved, after approval of the committee chairman or chairwoman, by another agency of either house, the Controller shall draw his warrants only upon the certification of such other agency. All expense claims approved by the chairman or chairwoman of any joint committee, other than the Joint Legislative Budget Committee and the Joint Legislative Audit Committee, shall be approved by the Joint Rules Committee and the Controller shall draw his warrants only upon the certification of the Joint Rules Committee.

Except salary claims of employees clearly subject to federal withholding taxes and the requirement as to loyalty oaths, claims presented for services or pursuant to contract shall refer to the agreement, the terms of which shall be made available to the Controller.

Expenses of Committee Employees

36.1. Unless otherwise provided by respective house or committee rule or resolution, employees of legislative committees shall, when entitled to traveling expenses, be entitled to allowances in lieu of actual expenses for hotel accommodations, breakfast, lunch, and dinner, at the rates fixed by the Board of Control from time to time in limitation of reimbursement of expenses of state employees

generally; provided, that if an allowance for hotel accommodations, breakfast, lunch, and dinner is made by a committee at a rate in excess of those fixed by the Board of Control the chairman or chairwoman of the committee shall notify the Controller of that fact in writing.

Appointment of Committees

36.5. The provisions of this rule shall apply whenever a joint committee is created by a statute or resolution which either provides that appointments be made and vacancies be filled in the manner provided for in the Joint Rules, or which makes no provision for the appointment of members or the filling of vacancies.

The Senate members of the committee shall be appointed by the Senate Committee on Rules; the Assembly members of the committee shall be appointed by the Speaker of the Assembly; and vacancies occurring in the membership of the committee shall be filled by the respective appointing powers. The members appointed shall hold over until their successors are regularly selected.

Appointment of Joint Committee Chairmen or Chairwomen

36.7. The chairman or chairwoman of each joint committee heretofore or hereafter created, except the Joint Legislative Budget Committee and the Joint Legislative Audit Committee, shall be appointed by the Joint Rules Committee from a member or members recommended by the Senate Committee on Rules and the Speaker of the Assembly.

Joint Committee Funds

36.8. Each joint committee, heretofore or hereafter created, except the Joint Legislative Budget Committee and the Joint Legislative Audit Committee, shall expend the funds heretofore or hereafter made available to it in compliance with the policies set forth by the Joint Rules Committee with respect to personnel, salaries, purchasing, office space assignment, contractual services, rental or lease agreements, travel, and any and all other matters relating to the management and administration of committee affairs.

Joint Legislative Budget Committee

37. In addition to any other committee provided for by these rules, there shall be a joint committee to be known and called the Joint Legislative Budget Committee, which is hereby declared to be a continuing body.

It shall be the duty of the committee to ascertain facts and make recommendations to the Legislature and to the houses thereof concerning the state budget, the revenues and expenditures of the

state, and the organization and functions of the state, its departments, subdivisions and agencies, with a view of reducing the cost of the state government and securing greater efficiency and economy.

The committee shall consist of seven Members of the Senate and seven Members of the Assembly. The Senate members of the committee shall consist of seven Members of the Senate appointed by the Senate Committee on Rules. The Assembly members of the committee shall consist of seven Members of the Assembly appointed by the Speaker of the Assembly. The committee shall select its own chairman or chairwoman.

Any vacancies occurring between regular sessions in the Senate membership of the Joint Legislative Budget Committee shall be filled by the Senate Committee on Rules, and the Senators appointed shall hold over until their successors are regularly selected. For the purposes of this rule, a vacancy shall be deemed to exist as to a Senator whose term is expiring whenever he is not reelected at the general election.

Any vacancies occurring between regular sessions in the Assembly membership of the Joint Legislative Budget Committee shall be filled by the Speaker of the Assembly, and the Members of the Assembly appointed shall hold over until their successors are regularly selected. For the purposes of this rule, a vacancy shall be deemed to exist as to a Member of the Assembly whose term is expiring whenever he is not reelected at the general election.

Any vacancy occurring at any time in the Assembly membership of the committee shall be filled by appointment by the Speaker. The committee shall have the authority to make rules to govern its own proceedings and its employees. It may also create subcommittees from its membership, assigning to its subcommittees any study, inquiry, investigation, or hearing which the committee itself has authority to undertake or hold and the subcommittee for the purpose of this assignment shall have and may exercise all the powers conferred upon the committee, limited only by the express terms of any rule or resolution of the committee defining the powers and duties of the subcommittee. Such powers may be withdrawn or terminated at any time by the committee.

The Joint Legislative Budget Committee may render services to any investigating committee of the Legislature pursuant to contract between the Joint Legislative Budget Committee and the committee for which the services are to be performed. The contract may provide for payment to the Joint Legislative Budget Committee of the cost of such services from the funds appropriated to the contracting investigating committee. All legislative investigating committees are authorized toenter into such contracts with the Joint Legislative Budget Committee. Money received by the Joint Legislative Budget Committee pursuant to any such agreement shall be in augmentation of the current appropriation for the support of the Joint Legislative Budget Committee.

The provisions of Rule 36 shall apply to the Joint Legislative Budget Committee, and it shall have all the authority provided in such rule or pursuant to Section 11 of Article IV of the Constitution.

The committee shall have authority to appoint a Legislative Analyst, to fix his compensation and to prescribe his duties, and to appoint such other clerical and technical employees as may appear necessary. The duties of the Legislative Analyst shall be as follows:

(1) To ascertain the facts and make recommendations to the Joint Legislative Budget Committee and under its direction to the committees of the Legislature concerning:

(a) The State Budget.

(b) The revenues and expenditures of the state.

(c) The organization and functions of the state, its departments, subdivisions, and agencies.

(2) To assist the Senate Budget and Fiscal Review Committee and the Assembly Ways and Means Committee in consideration of the budget and all bills carrying express or implied appropriations and all legislation affecting state departments and their efficiency; to appear before any other legislative committee; and to assist any other legislative committees upon instruction by the Joint Legislative Budget Committee.

(3) To provide all legislative committees and Members of the Legislature with information obtained under the direction of the Joint Legislative Budget Committee.

(4) To maintain a record of all work performed by the Legislative Analyst under the direction of the Joint Legislative Budget Committee and to keep and make available all documents, data, and reports submitted to him by any Senate, Assembly, or joint committee. The committee may meet either during sessions of the Legislature, any recess thereof, or after final adjournment, and may meet or conduct business at any place within the State of California.

The chairman or chairwoman of the committee or, in the event of such person's inability to act, the vice chairman or vice chairwoman, shall audit and approve the expenses of members of the committee or salaries of the employees, and all other expenses incurred in connection with the performance of its duties by the committee, and the chairman or chairwoman shall certify the amount approved to the Controller, and the Controller shall draw his warrants upon the certification of the chairman or chairwoman, and the Treasurer shall pay the same to the chairman or chairwoman of the committee to be disbursed by the chairman or chairwoman.

On and after the commencement of a succeeding regular session those members of the committee who continue to be Members of the Senate and Assembly, respectively, continue as members of the committee until their successors are appointed, and the committee continues with all its powers, duties, authority, records, papers, personnel, and staff, and all funds theretofore made available for its use.

Upon the conclusion of its work, any Assembly, Senate, or joint

committee (other than a standing committee) shall deliver to the Legislative Analyst for use and custody all documents, data, reports, and other materials that have come into the possession of such committee and which are not included within the final report of such committee to the Assembly, Senate, or the Legislature, as the case may be. Such documents, data, reports, and other materials shall be available to Members of the Legislature, the Senate Office of Research, and the Assembly Office of Research, upon request.

The Legislative Analyst with the consent of the committee shall make available to any Member or committee of the Legislature any other reports, records, documents, or other data under his control, except that reports prepared by the Legislative Analyst in response to a request from a Member or committee of the Legislature shall only be made available with the written permission of the Member or committee who made the request.

The Legislative Analyst, upon the receipt of a request from any committee or Member of the Legislature to conduct a study or provide information which falls within the scope of his responsibilities and which concerns the administration of the government of the State of California, shall at once advise the Joint Legislative Budget Committee of the nature of the request without disclosing the name of the member or committee making the request.

The Legislative Analyst shall immediately undertake to provide the requesting committee or legislator with the service or information requested, and shall inform the committee or legislator of the approximate date when this information will be available. Should there be any material delay, he shall subsequently communicate this fact to the requester.

Neither the Committee on Rules of either house nor the Joint Rules Committee shall assign any matter for study to the Joint Legislative Budget Committee or the Legislative Analyst without first obtaining from the Joint Legislative Budget Committee an estimate of the amount required to be expended by it to make the study.

Any concurrent, joint, Senate, or House resolution assigning a study to the Joint Legislative Budget Committee or to the Legislative Analyst shall be referred to the respective rules committees. Before the committees shall act upon or assign such resolution, they shall obtain an estimate from the Joint Legislative Budget Committee of the amount required to be expended to make the study.

Citizen Cost Impact Report

37.1. Any Member or committee of the Legislature may recommend that the Legislative Analyst prepare a citizen cost impact analysis on proposed legislation. However, such a recommendation shall first be reviewed by the Committee on Rules of the house where the recommendation originated, and this

committee shall make the final determination as to which bills shall be assigned for preparation of an impact analysis.

In selecting specific bills for assignment to the Legislative Analyst for preparation of citizen cost impact analyses, the Committee on Rules shall request the Legislative Analyst to present an estimate of his time and prospective costs for preparing the analyses. Only those bills which have a potential significant cost impact shall be assigned. Where necessary, the Committee on Rules shall provide funds to offset added costs incurred by the Legislative Analyst.

The citizen cost impact analyses shall include those economic effects which the Legislative Analyst deems significant and which he believes will result directly from the proposed legislation. Insofar as feasible, the Legislative Analyst shall consider, but not be limited to consideration of, the following:

(a) The economic effect on the public generally.

(b) Any specific economic effect on persons or businesses in the case of legislation which is regulatory.

The Legislative Analyst shall submit the citizen cost impact analyses when completed to the committee or committees and at the time or times designated by the Committee on Rules.

The Legislative Analyst shall submit from time to time, but at least once a year, a report to the Legislature on the trends and directions of the state's economy, and shall list the alternatives and make recommendations as to legislative actions which, in his judgment, will insure a sound and stable state economy.

Joint Legislative Audit Committee

37.3. The Joint Legislative Audit Committee is created pursuant to the Legislature's rulemaking authority and specific constitutional authority by Chapter 4 (commencing with Section 10500), Part 2, Division 2, Title 2 of the Government Code. The committee shall consist of seven Members of the Senate and seven Members of the Assembly who shall be selected in the manner provided for in these rules, of which one shall be the chairman of the fiscal committee for the Senate and one the chairman of the fiscal committee for the Assembly. Notwithstanding anything to the contrary in these rules, four members from each house constitute a quorum and the number of votes necessary to take action on any matter. The Chairman of the Joint Legislative Audit Committee, upon receiving a request by any Member of the Legislature or committee thereof for a copy of a report prepared or being prepared by the Auditor General, shall provide the member or committee with a copy of such report when it is, or has been, submitted by the Auditor General to the Joint Legislative Audit Committee.

Study or Audits

37.4. (a) Notwithstanding any other provision of law to the contrary, the Joint Legislative Audit Committee shall establish priorities and assign all work to be done by the Auditor General.

(b) Any bill requiring action by the Auditor General shall contain an appropriation for the cost of any study or audit.

(c) Any bill or concurrent, joint, Senate, or House resolution assigning a study to the Joint Legislative Audit Committee or to the Auditor General shall be referred to the respective rules committees. Before the committees shall act upon or assign the bill or resolution, they shall obtain an estimate from the Joint Legislative Audit Committee of the amount required to be expended to make the study.

Waiver

37.5. The provisions of subdivision (b) of Rule 37.4 may be waived by the Joint Legislative Audit Committee. The chairman of the committee shall notify the Secretary of the Senate, the Chief Clerk of the Assembly, and the Legislative Counsel in writing when the provisions of subdivision (b) of Rule 37.4 have been waived. If the cost of a study or audit is less than one hundred thousand dollars ($100,000), the chairman of the committee may exercise the committee's authority to waive the provisions of subdivision (b) of Rule 37.4.

Administrative Regulations

37.7. (a) Any Member of the Senate may request the Senate Committee on Rules, and any Member of the Assembly may request the Speaker of the Assembly, to direct a standing committee or the Office of Research of their respective house to study any proposed or existing regulation or group of related regulations. Upon receipt of such a request, the Senate Committee on Rules or the Speaker of the Assembly shall, after review, determine whether such a study shall be made. In reviewing the request, the Senate Committee on Rules or the Speaker of the Assembly shall determine:

(1) The cost of making such a study.

(2) The potential public benefit to be derived from such a study.

(3) The scope of the study.

(b) The study may consider, among other relevant issues, whether the proposed or existing regulation:

(1) Exceeds the agency's statutory authority.

(2) Fails to conform to the legislative intent of the enabling statute.

(3) Contradicts or duplicates other regulations adopted by federal, state, or local agencies.

(4) Involves an overdelegation of regulatory authority to a

particular state agency.

(5) Unfairly burdens particular elements of the public.

(6) Imposes social or economic costs which outweigh its intended benefits to the public.

(7) Imposes unreasonable penalties for violation.

The respective reviewing unit shall in a timely manner transmit its concerns, if any, to the Senate Committee on Rules or the Speaker of the Assembly, and the promulgating agency.

In the event that a state agency takes a regulatory action which the reviewing unit finds unacceptable, the unit shall file a report for publication in the daily journal of its respective house indicating the specific reasons why the regulatory action should not have been taken. The report may include a recommendation that the Legislature adopt a concurrent resolution requesting the state agency to reconsider its action or that the Legislature enact a statute to restrict the regulatory powers of the state agency taking the action.

Designating Legislative Sessions

39. All extraordinary sessions shall be designated in numerical order by the session in which convened.

Joint Rules Committee

40. The Joint Rules Committee is hereby created. The committee has a continuing existence and may meet, act, and conduct its business during sessions of the Legislature or any recess thereof.

The committee shall consist of the members of the Assembly Committee on Rules, the Assembly Majority Floor Leader, the Assembly Minority Floor Leader, the Speaker of the Assembly, and four members of the Senate Committee on Rules, and six Members of the Senate, to be appointed by the Senate Committee on Rules. Vacancies occurring in the membership shall be filled by the appointing power.

The committee and its members shall have and exercise all of the rights, duties, and powers conferred upon investigating committees and their members by the provisions of the Joint Rules of the Senate and Assembly as they are adopted and amended from time to time, which provisions are incorporated herein and made applicable to this committee and its members.

The committee shall ascertain facts and make recommendations to the Legislature and to the houses thereof concerning:

(a) The relationship between the two houses and procedures calculated to expedite the affairs of the Legislature by improving that relationship.

(b) The legislative branch of the state government and any defects or deficiencies in the law governing that branch.

(c) Methods whereby legislation is proposed, considered, and

acted upon.

(d) The operation of the Legislature, and the committees thereof, and the means of coordinating the work thereof and avoiding duplication of effort.

(e) Aids to the Legislature.

(f) Information and statistics for the use of the Legislature, and respective houses thereof, and the members.

Any matter of business of either house, the transaction of which would affect the interests of the other house, may be referred to the committee for action if the Legislature is not in recess, and shall be referred to the committee for action if the Legislature is in recess.

The committee has the following additional powers and duties:

(a) To select a chairman or chairwoman from its membership. The vice chairman or vice chairwoman of the committee shall be one of the Senate members of the committee, to be selected by the Senate Committee on Rules.

(b) To allocate space in the State Capitol Building and all annexes and additions thereto as provided by law.

(c) To approve, as provided by law, the appearance of the Legislative Counsel in litigation.

(d) To contract with such other agencies, public or private, as it deems necessary for the rendition and affording of such services, facilities, studies, and reports to the committee as will best assist it to carry out the purposes for which it is created.

(e) To cooperate with and secure the cooperation of county, city, city and county, and other local law enforcement agencies in investigating any matter within the scope of this rule and to direct the sheriff of any county to serve subpoenas, orders, and other process issued by the committee.

(f) To report its findings and recommendations, including recommendations for the needed revision of any and all laws and constitutional provisions relating to the Legislature, to the Legislature and to the people from time to time and at any time.

(g) The committee, and any subcommittee when so authorized by the committee, may meet and act without as well as within the State of California, and is authorized to leave the state in the performance of its duties.

(h) To expend such funds as may be made available to it to carry out the functions and activities related to the legislative affairs of the Senate and Assembly.

(i) To appoint a chief administrative officer of the committee, who shall have such duties relating to the administrative, fiscal, and business affairs of the committee as the committee shall prescribe. The committee may terminate the services of the chief administrative officer at any time.

(j) To employ such persons as may be necessary to assist all other joint committees, except the Joint Legislative Budget Committee and the Joint Legislative Audit Committee, in the exercise of their powers and performance of their duties. In accordance with Rule

36.8, the committee shall govern and administer the expenditure of funds by such other joint committees, requiring that the claims of such joint committees be approved by the Joint Rules Committee or its designee. All expenses of the committee as well as expenses of all other joint committees may be paid from the Contingent Funds of the Assembly and Senate.

(k) To appoint the chairmen or chairwomen of joint committees, as authorized by Rule 36.7.

(*l*) To do any and all other things necessary or convenient to enable it fully and adequately to exercise its powers, perform its duties, and accomplish the objects and purposes of this rule.

The members of the Joint Rules Committee from the Senate may meet separately as a unit, and the members of the Joint Rules Committee from the Assembly may meet separately as a unit, and consider any action which is required to be taken by the Joint Rules Committee. If the majority of members of the Joint Rules Committee of each house at the separate meetings vote in favor of such action, the action shall be deemed to be action taken by the Joint Rules Committee.

The Joint Rules Committee shall meet not less than biweekly during a session of the Legislature, other than during a joint recess, at a regularly scheduled time and place. If the full committee fails to so meet, the members of the committee from the Senate shall meet separately as a unit and the members of the committee from the Assembly shall meet separately as a unit within 5 days of the regularly scheduled meeting date.

The committee shall succeed to, and is vested with, all of the powers and duties of the Joint Committee on Legislative Organization, State Capitol Committee, the Joint Committee on Interhouse Cooperation, the Joint Legislative Committee for School Visitations, and the Joint Standing Committee on the Joint Rules of the Senate and the Assembly.

Review of Administrative Regulations

40.1. The Joint Rules Committee, with regard to joint committees, and the respective rules committee of each house, with regard to standing and select committees of the house, shall approve any request for a priority review made by a committee pursuant to subdivision (m) of Section 11349.7 of the Government Code and shall submit approved requests to the Office of Administrative Law. The Joint Rules Committee or the respective rules committee, and the committee initiating the request, shall each receive a copy of the priority review.

Subcommittee on Legislative Space and Facilities

40.3. (a) A subcommittee of the Joint Rules Committee is hereby created to be known as the Subcommittee on Legislative Space and

Facilities. The subcommittee shall consist of three Members of the Senate and three Members of the Assembly, appointed by the Chairman of the Joint Rules Committee, and the chairman of the fiscal committee of each house who shall have full voting rights on the subcommittee. The chairman of the subcommittee shall be appointed by the members thereof. For purposes of this subcommittee, the chairmen of the fiscal committees shall be ex officio members of the Joint Rules Committee, but shall not have voting rights on that committee, nor shall they be counted in determining a quorum. The subcommittee shall consider the housing of the Legislature and legislative facilities.

(b) The subcommittee and its members shall have and exercise all of the rights, duties, and powers conferred upon investigating committees and their members by the provisions of the Joint Rules of the Senate and Assembly as they are adopted and amended from time to time, which provisions are incorporated herein and made applicable to this subcommittee and its members.

(c) The subcommittee has the following additional powers and duties:

(1) To contract with such other agencies, public or private, as it deems necessary for the rendition and affording of such services, facilities, studies, and reports to the subcommittee as will best assist it to carry out the purposes for which it is created.

(2) To cooperate with and secure the cooperation of county, city, city and county, and other local law enforcement agencies in investigating any matter within the scope of this rule and to direct the sheriff of any county to serve subpoenas, orders, and other process issued by the subcommittee.

(3) To report its findings and recommendations to the Legislature and to the people from time to time and at any time.

(4) To do any and all other things necessary or convenient to enable it fully and adequately to exercise its powers, perform its duties, and accomplish the objects and purposes of this rule.

(d) The subcommittee is authorized to leave the State of California in the performance of their duties.

Subcommittee on Legislative Assistance

40.5. A subcommittee of the Joint Rules Committee is hereby created to be known as the Subcommittee on Legislative Assistance. The Chairman or Chairwoman of the Joint Rules Committee shall appoint one member of the Joint Rules Committee from each house to be members of the subcommittee.

The subcommittee shall have the duty and responsibility of offering such assistance as may be desired by Members of the Legislature, former members, and their families and rendering such aid and assistance as is possible through the offices of the Sergeants at Arms and other officers and employees of the Legislature in the event of the death of a member, former member, or a member of

their families.

The Sergeants at Arms and other officers and employees of each house of the Legislature shall render such aid or assistance as may be requested or directed by the subcommittee.

The Joint Rules Committee shall allocate to the subcommittee, from any funds available therefor, such funds as may be required to carry out its functions.

Claims for Workers' Compensation

41. The Chairman or Chairwoman of the Committee on Rules of each house, or a designated representative, shall sign any required worker's compensation report regarding injuries or death arising out of and within the course of employment suffered by any member, officer, or employee of the house, or any employee of a standing or investigating committee thereof. In the case of a joint committee, the Chairman or Chairwoman of the Committee on Rules of either house, or a designated representative, may sign any such report in respect to a member or employee of such joint committee.

Information Concerning Committees

42. The Committee on Rules of each house shall provide for a continuous cumulation of information concerning the membership, organization, meetings, and studies of legislative investigating committees. Each Committee on Rules shall be responsible for information concerning the investigating committees of its own house and concerning joint investigating committees under the chairmanship of a member of that house. To the extent possible, each Committee on Rules shall seek to insure that the investigating committees for which it has responsibility under this rule have organized, including the organization of any subcommittees, and have had all topics for study assigned to them within a reasonable period of time.

The information thus cumulated shall be made available to the public by the Committee on Rules of each house and shall be published periodically under their joint direction.

Joint Committees

43. Concurrent resolutions creating joint committees of the Legislature and concurrent resolutions allocating moneys from the Contingent Funds of the Assembly and Senate to such committees shall be referred to the Committee on Rules of the respective houses.

Conflict of Interest

44. (a) No Member of the Legislature shall, while serving as such, have any interest, financial or otherwise, direct or indirect, or engage

in any business or transaction or professional activity, or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his or her duties in the public interest and of his or her responsibilities as prescribed by the laws of this state.

(b) No Member of the Legislature shall, during the term for which he or she was elected:

(1) Accept other employment which he or she has reason to believe will either impair his or her independence of judgment as to his or her official duties or require him or her, or induce him or her, to disclose confidential information acquired by him or her in the course of and by reason of his or her official duties.

(2) Willfully and knowingly disclose, for pecuniary gain, to any other person, confidential information acquired by him or her in the course of and by reason of his or her official duties or use any such information for the purpose of pecuniary gain.

(3) Accept or agree to accept, or be in partnership with any person who accepts or agrees to accept, any employment, fee, or other thing of value, or portion thereof, in consideration of his or her appearance, agreeing to appear, or taking any other action on behalf of another person regarding a licensing or regulatory matter, before any state board or agency which is established by law for the primary purpose of licensing or regulating the professional activity of persons licensed, pursuant to state law; provided, that this rule shall not be construed to prohibit a member who is an attorney at law from practicing in such capacity before the Workers' Compensation Appeals Board or the Commissioner of Corporations, and receiving compensation therefor, or from practicing for compensation before any state board or agency in connection with, or in any matter related to, any case, action, or proceeding filed and pending in any state or federal court; and provided that this rule shall not act to prohibit a member from making inquiry for information on behalf of a constituent before a state board or agency, if no fee or reward is given or promised in consequence thereof, and provided that the prohibition contained in this rule shall not apply to a partnership in which the Member of the Legislature is a member if the Member of the Legislature does not share directly or indirectly in the fee resulting from the transaction; and provided that the prohibition contained in this rule shall not apply in connection with any matter pending before any state board or agency on the operative date of this rule if the affected Member of the Legislature is attorney of record or representative in the matter prior to such operative date.

(4) Receive or agree to receive, directly or indirectly, any compensation, reward, or gift from any source except the State of California for any service, advice, assistance, or other matter related to the legislative process, except fees for speeches or published works on legislative subjects and except, in connection therewith, reimbursement of expenses for actual expenditures for travel and reasonable subsistence for which no payment or reimbursement is made by the State of California.

(5) Participate, by voting or any other action, on the floor of either house, or in committee or elsewhere, in the enactment or defeat of legislation in which he or she has a personal interest, except as follows:

(i) If, on the vote for final passage by the house of which he or she is a member, of the legislation in which he or she has a personal interest, he or she first files a statement (which shall be entered verbatim on the journal) stating in substance that he or she has a personal interest in the legislation to be voted on and notwithstanding such interest, he or she is able to cast a fair and objective vote on such legislation, he or she may cast his or her vote without violating any provision of this rule;

(ii) If the member believes that, because of his or her personal interest, he or she should abstain from participating in the vote on the legislation, he or she shall so advise the presiding officer prior to the commencement of the vote and shall be excused from voting on the legislation without any entry on the journal of the fact of his or her personal interest. In the event a rule of the house, requiring that each member who is present vote aye or nay is invoked, the presiding officer shall order the member excused from compliance and shall order entered on the journal a simple statement that the member was excused from voting on the legislation pursuant to law.

(c) A person subject to this rule has an interest which is in substantial conflict with the proper discharge of his or her duties in the public interest and of his or her responsibilities as prescribed in the laws of this state or a personal interest, arising from any situation, within the scope of this rule, if he or she has reason to believe or expect that he or she will derive a direct monetary gain or suffer a direct monetary loss, as the case may be, by reason of his or her official activity. He or she does not have an interest which is in substantial conflict with the proper discharge of his or her duties in the public interest and of his or her responsibilities as prescribed by the laws of this state or a personal interest, arising from any situation, within the scope of this rule, if any benefit or detriment accrues to him or her as a member of a business, profession, occupation, or group to no greater extent than any other member of such business, profession, occupation, or group.

(d) A person subject to the provisions of this rule shall not be deemed to be engaged in any activity which is in substantial conflict with the proper discharge of his or her duties in the public interest and of his or her responsibilities as prescribed by the laws of this state, arising from any situation, or to have a personal interest, arising from any situation, within the scope of this rule, solely by reason of any of the following:

(1) His or her relationship to any potential beneficiary of any situation is one which is defined as a remote interest by Section 1091 of the Government Code or is otherwise not deemed to be a prohibited interest by Section 1091.1 or 1091.5 of the Government Code.

(2) Receipt of a campaign contribution regulated, received, reported, and accounted for pursuant to Chapter 4 (commencing with Section 84100) of Title 9 of the Government Code, so long as the contribution is not made on the understanding or agreement, in violation of law, that the person's vote, opinion, judgment, or action will be influenced thereby.

(e) The enumeration in this rule of specific situations or conditions which are deemed not to result in substantial conflicts with the proper discharge of the duties and responsibilities of a legislator or legislative employee or in a personal interest shall not be construed as exclusive.

The Legislature in adopting this rule recognizes that Members of the Legislature and legislative employees may need to engage in employment, professional, or business activities other than legislative activities, in order to maintain a continuity of professional or business activity, or may need to maintain investments, which activities or investments do not conflict with the specific provisions of this rule. However, in construing and administering the provisions of the rule, weight should be given to any coincidence of income, employment, investment, or other profit from sources which may be identified with the interests represented by those sources which are seeking action of any character on matters then pending before the Legislature.

(f) No employee of either house of the Legislature shall, during the time he is so employed, commit any act or engage in any activity prohibited by any part of this rule.

(g) No person shall induce or seek to induce any Member of the Legislature to violate any part of this rule.

(h) Violations of any part of this rule are punishable as provided in Section 8926 of the Government Code.

Joint Legislative Ethics Committee

45. (a) The Joint Legislative Ethics Committee is hereby created. The committee shall consist of three Members of the Senate appointed by the Senate Committee on Rules and three Members of the Assembly appointed by the Speaker of the Assembly. Of the three members appointed from each house, at least one from each house shall be a member of the political party having the largest number of members in that house and at least one from each house shall be a member of the political party having the second largest number of members in that house. The committee shall elect its own chairman or chairwoman. Vacancies occurring in the membership of the committee shall be filled in the manner provided for in these rules for other committees. A vacancy shall be deemed to exist as to any member of the committee whose term is expiring whenever such member is not reelected at the general election.

(b) The committee is authorized to make rules governing its own proceedings. The provisions of Rule 36 relating to investigating

committees shall apply to the committee.

Prior to the issuance of any subpoena by the committee with respect to any matter before the committee, it shall by a resolution adopted by a vote of two members of the committee from each house of the Legislature define the nature and scope of its investigation in the matter before it.

(c) Funds for the support of the committee shall be provided from the Contingent Funds of the Assembly and the Senate in the same manner that such funds are made available to other joint committees of the Legislature.

(d) The committee shall have power, pursuant to the provisions of this rule, to investigate and make findings and recommendations concerning alleged violations by Members of the Legislature of the provisions of Rule 44.

(e) Any person may: (1) file with the committee a verified complaint in writing which shall state the name of the Member of the Legislature alleged to have committed the violation complained of, and which shall set forth the particulars thereof, or (2) file a complaint concerning the alleged violation by a Member of the Legislature with the district attorney of the appropriate county.

If a person files a complaint with respect to any alleged violation by a Member of the Legislature with the committee, he or she may not thereafter file a complaint to institute a criminal prosecution for such violation until the committee has rendered its report or until a period of 120 days has elapsed since the filing of the complaint. If a complaint is filed with the appropriate district attorney by any person concerning an alleged violation by a Member of the Legislature of any provision of Rule 44, such person may not thereafter file a complaint with respect to such alleged violation with the committee.

If a complaint is filed with the committee, the committee shall promptly send a copy of the complaint to the Member of the Legislature alleged to have committed the violation complained of, who shall thereafter be designated as the respondent.

No complaint may be filed with the committee after the expiration of six months from the date upon which the alleged violation occurred.

(f) If the committee determines that the verified complaint does not allege facts, directly or upon information and belief, sufficient to constitute a violation of any of the provisions of Rule 44, it shall dismiss the complaint and notify the complainant and respondent thereof. If the committee determines that such verified complaint does allege facts, directly or upon information and belief, sufficient to constitute a violation of any of the provisions of Rule 44, the committee shall promptly investigate the alleged violation and if, after such preliminary investigation, the committee finds that probable cause exists for believing the allegations of the complaint, it shall fix a time for a hearing in the matter, which shall be not more than 30 days after such finding. If, after the preliminary investigation,

the committee finds that probable cause does not exist for believing the allegations of the complaint, the committee shall dismiss the complaint. In either event, the committee shall notify the complainant and respondent of its determination.

(g) After the complaint has been filed, the respondent shall be entitled to examine and make copies of all evidence in the possession of the committee relating to the complaint.

(h) If a hearing is to be held pursuant to subdivision (f) of this rule, the committee, before the hearing has commenced, shall issue subpoenas and subpoenas duces tecum at the request of any party in accordance with the provisions of Chapter 4 (commencing with Section 9400), Part 1, Division 2, Title 2 of the Government Code. All of the provisions of Chapter 4, except Section 9410, shall be applicable to the committee and the witnesses before it.

(i) At any hearing held by the committee:

(1) Oral evidence shall be taken only on oath or affirmation.

(2) Each party shall have these rights: to be represented by legal counsel; to call and examine witnesses; to introduce exhibits; and to cross-examine opposing witnesses.

(3) The hearing shall be open to the public.

(j) Any official or other person whose name is mentioned at any investigation or hearing of the committee and who believes that testimony has been given which adversely affects him, shall have the right to testify or, at the discretion of the committee, to file a statement of facts under oath relating solely to the material relevant to the testimony of which he complains.

(k) After the hearing the committee shall state its findings of fact. If the committee finds that the respondent has not violated any of the provisions of Rule 44, it shall order the action dismissed, and shall notify the respondent and complainant thereof and shall also transmit a copy of the complaint and the fact of dismissal to the Attorney General and to the district attorney of the appropriate county. If the committee finds that the respondent has violated any of the provisions of Rule 44, it shall state its findings of fact and submit a report thereon to the house in which the respondent serves, send a copy of such findings and report to the complainant and respondent, and the committee shall also report thereon to the Attorney General and to the district attorney of the appropriate county.

(*l*) Nothing in this rule shall preclude any person from instituting a prosecution for violation of any provision of Rule 44 unless such person has filed a complaint with the committee concerning such violation, in which case such person may not file a complaint with the district attorney of the appropriate county to institute a criminal prosecution for such violation until the committee has made its determination of the matter or a period of 120 days has elapsed since the filing of the complaint with the committee.

(m) The filing of a complaint with the committee pursuant to this rule suspends the running of the statute of limitations applicable to

any violation of the provisions of Rule 44 while such complaint is pending.

(n) The committee shall maintain a record of its investigations, inquiries, and proceedings. All records, complaints, documents, reports filed with or submitted to or made by the committee, and all records and transcripts of any investigations, inquiries, or hearings of the committee under this rule shall be deemed confidential and shall not be open to inspection by any person other than a member of the committee, an employee of the committee, or a state employee designated to assist the committee, except as otherwise specifically provided in this rule. The committee may, by adoption of a resolution, authorize the release to the Attorney General or to the district attorney of the appropriate county of any information, records, complaints, documents, reports, and transcripts in its possession material to any matter pending before the Attorney General or the district attorney. All matters presented at a public hearing of the committee and all reports of the committee stating a final finding of fact pursuant to subdivision (k) of this rule shall be public records and open to public inspection. Any employee of the committee who divulges any matter which is deemed to be confidential by this subdivision is punishable as provided in Section 8953 of the Government Code.

(o) All actions of the committee shall require the concurrence of two members of the committee from each house.

(p) The committee may render advisory opinions to Members of the Legislature with respect to the provisions of Rule 44 and their application and construction. The committee may secure an opinion from the Legislative Counsel for this purpose or issue its own opinion.

Legislative Hearing Rooms

46. The Rules Committee of each house shall provide designated space for nonsmokers in each legislative hearing room under its jurisdiction; provided, however, that nothing in this rule shall prevent any committee chairman from prohibiting smoking completely, or from further restricting smoking to a greater extent than provided by the Rules Committee of that house.

Designating Legislative Sessions

50. Regular sessions shall be identified with the odd-numbered year subsequent to each general election, followed by a hyphen, and then the last two digits of the following even-numbered year. For example: 1973–74 Regular Session.

Days and Dates

50.5. (a) As used in these rules, "day" means a calendar day, unless otherwise specified.

(b) When the date of a deadline, recess requirement, or circumstance falls on a Saturday, Sunday, or Monday that is a holiday, the date shall be deemed to refer to the preceding Friday. When the date falls on a holiday on a weekday other than a Monday, the date shall be deemed to refer to the preceding day.

Legislative Calendar

51. (a) The Legislature shall observe the following calendar during the first year of the regular session:

(1) Organizational Recess—The Legislature shall meet on the first Monday in December following the general election to organize. Thereafter, each house shall be in recess from such time as it determines, but not later than the following Friday until the first Monday in January, except when the first Monday is January 1 or January 1 is a Sunday, in which case, the following Tuesday.

(2) Easter Recess—The Legislature shall be in recess from the 10th day prior to Easter until the Monday after Easter.

(3) Summer Recess—The Legislature shall be in recess from July 19 until August 19. This recess shall not commence until the Budget Bill is enacted.

(4) Interim Study Recess—The Legislature shall be in recess from September 13 until the first Monday in January, except when the first Monday is January 1 or January 1 is a Sunday, in which case, the following Tuesday.

(b) The Legislature shall observe the following calendar for the remainder of the legislative session:

(1) Easter Recess—The Legislature shall be in recess from the 10th day prior to Easter until the Monday after Easter.

(2) Summer Recess—The Legislature shall be in recess from July 3 until August 4. This recess shall not commence until the Budget Bill is enacted.

(3) Final Recess—The Legislature shall be in recess on September 1 until adjournment sine die on November 30.

(c) Recesses shall be from the hour of adjournment on the day specified to reconvene at the time designated by the respective houses.

(d) The recesses specified by this rule shall be designated as joint recesses.

Recall From Recess

52. Notwithstanding the power of the Governor to call a special session, the Legislature may be recalled from joint recess and reconvene in regular session by any of the following means:

(a) It may be recalled by joint proclamation, which shall be entered in the journal, of the Senate Committee on Rules and the Speaker of the Assembly or, in his or her absence from the state, the Assembly Committee on Rules.

(b) Ten or more Members of the Legislature may present a request for recall from joint recess to the Chief Clerk of the Assembly and the Secretary of the Senate. The request shall immediately be printed in the journal. Within 10 days thereafter, the Speaker of the Assembly, or if the Speaker is absent from the state, the Assembly Committee on Rules, and the Senate Committee on Rules shall act upon the request. If they concur in desiring to recall the Legislature from joint recess, they shall issue their joint proclamation entered in the journal no later than 20 days after publication of the request in the journal.

(c) If either or both of the parties specified in subdivision (b) does not concur, 10 or more Members of the Legislature may request the Chief Clerk of the Assembly or the Secretary of the Senate to petition the membership of the respective house. The petition shall be entered in the journal and shall contain a specified reconvening date commencing not later than 20 days after the date of the petition. If two-thirds of the members of the house or each of the two houses concur, the Legislature shall reconvene on the date specified. The necessary concurrences must be received at least 10 days prior to date specified for reconvening.

Procedure on Suspending Rules by Single House

53. Whenever these rules authorize suspension of the Joint Rules as to a particular bill by action of a single house after approval by the Committee on Rules of that house, the following procedure shall be followed:

(a) A written notice of intention to suspend the joint rule shall be filed with the Chief Clerk of the Assembly or the Secretary of the Senate, as the case may be, and shall be transmitted to the Committee on Rules of the appropriate house. The notice shall be printed in the journal of that house.

(b) The Assembly Committee on Rules or the Senate Committee on Rules, as the case may be, shall determine whether there exists an urgent need for the suspension of the joint rule with regard to the bill.

(c) If the appropriate rules committee recommends that the suspension be permitted, the member may offer a resolution, without further reference thereof to committee, granting permission to suspend the joint rule. The adoption of the resolution granting such permission shall require an affirmative recorded vote of the elected members of the house in which the request is made.

Introduction of Bills

54. (a) No bill may be introduced in the first year of the regular session after March 8 and no bill may be introduced in the second year of the regular session after February 21. These deadlines shall not apply to constitutional amendments, committee bills introduced pursuant to Assembly Rule 47 or Senate Rule 23, bills introduced in the Assembly with the permission of the Speaker of the Assembly, or bills introduced in the Senate with the permission of the Senate Committee on Rules. Subject to these deadlines, bills may be introduced at any time except when the houses are in joint summer, interim, or final recess. Each house may provide for introduction of bills during a recess other than a joint recess. Bills shall be numbered consecutively during the regular session.

(b) The Desks of the Senate and Assembly shall remain open, during a joint recess, other than a joint Easter, summer, interim, or final recess, for introduction of bills, during business hours on Monday through Friday, inclusive, except holidays. Bills received at the Senate Desk during such periods shall be numbered and printed. After printing, such bills shall be delivered to the Secretary of the Senate and shall be referred by the Senate Committee on Rules to a standing committee. Bills received at the Assembly Desk during such periods shall be numbered, printed, and referred to a committee by the Assembly Committee on Rules. After printing, such bills shall be delivered to the Chief Clerk of the Assembly. On the reconvening of each house, the bills shall be read the first time, and shall be delivered to the committee to which they were referred.

(c) A member may not author a bill during a session that would have substantially the same effect as a bill he or she had previously introduced during that session. This restriction shall not apply in cases where a previously introduced bill has been vetoed by the Governor or has had its provisions "chaptered out" by a later chaptered bill pursuant to Section 9605 of the Government Code. An objection may be raised only while the bill is being considered by the house in which it is introduced. In such case the objection shall be referred to the Committee on Rules of the house for a determination. The bill shall remain on file or with a committee, as the case may be, until such determination is made. If upon consideration of the objection the Committee on Rules determines that the bill objected to would have substantially the same effect as another bill previously introduced during the session by the author, the bill objected to shall be stricken from the file or returned to the desk by the committee, as the case may be, and shall not be acted upon during the remainder of the session. If the Committee on Rules determines that the bill objected to would not have substantially the same effect as a bill previously introduced during the session by the author, the bill may thereafter be acted upon by the committee or the house, as the case may be. The Committee on Rules may obtain such assistance as it may desire from the Legislative Counsel as to the similarity of a bill

or amendments to a prior bill.

This joint rule may be suspended by approval of the Committee on Rules and three-fourths vote of the membership of the house.

(d) During a joint recess, the Chief Clerk of the Assembly or Secretary of the Senate shall order the preparation of preprint bills when so ordered by any of the following:

(1) The Speaker of the Assembly.

(2) The Committee on Rules of the respective houses.

(3) A committee with respect to bills within the subject matter jurisdiction of the committee.

Preprint bills shall be designated as such and shall be printed in the order received and numbered in the order printed. To facilitate subsequent amendment, preprint bills shall be so prepared that when introduced as a bill, the page and the line numbers will not change. The Chief Clerk of the Assembly and Secretary of the Senate shall publish a list periodically of such preprint bills showing the preprint bill number, the title, and the Legislative Counsel's Digest. The Speaker of the Assembly and Senate Committee on Rules may refer all preprint bills to committee for study.

30-Day Waiting Period

55. No bill other than the Budget Bill may be heard or acted upon by committee or either house until the bill has been in print for 30 days. The date a bill is returned from the printer shall be entered in the history. This rule may be suspended concurrently with the suspension of the requirement of Section 8 of Article IV of the Constitution or if such period has expired, this rule may be suspended by approval of the Committee on Rules and two-thirds vote of the house in which the bill is being considered.

Return of Bills

56. Bills introduced in the first year of the regular session and passed by the house of origin on or before the January 30th constitutional deadline are "carryover bills." Immediately after January 30, bills introduced in the first year of the regular session that do not become "carryover bills" shall be returned to the Chief Clerk of the Assembly or Secretary of the Senate, respectively. Notwithstanding Rule 4, as used in this rule, "bills" does not include constitutional amendments.

Appropriation Bills

57. Appropriation bills that may not be sent to the Governor shall be held, after enrollment, by the Chief Clerk of the Assembly or Secretary of the Senate, respectively. The bills shall be sent to the Governor immediately after the Budget Bill has been enacted.

Urgency Clauses

58. An amendment to add a section to a bill to provide that the act shall take effect immediately as an urgency statute shall not be adopted unless the author of the amendment has first secured the approval of the Committee on Rules of the house in which the amendments are offered.

Vetoes

58.5. The Legislature may consider a Governor's veto for only 60 days, not counting days when the Legislature is in joint recess.

Publications

59. During periods of joint recess, weekly, if necessary, the following documents shall be published: files, histories, and journals.

Hearings in Sacramento

60. (a) No standing committee or subcommittee thereof may take action on a bill at any hearing held outside of Sacramento.

(b) A committee may hear the subject matter of a bill during a period of recess. Four days' notice in the daily file is required prior to the hearing.

(c) No bill may be acted upon by a committee during a joint recess.

Deadlines

61. The following deadlines shall be observed by the Senate and Assembly. After each deadline, the Secretary of the Senate and the Chief Clerk of the Assembly shall not accept committee reports from their respective committees except as otherwise provided in this rule:

(a) Odd-numbered year:

(1) Mar 8	-	Last day for bills to be introduced.
(2) May 3	-	Last day for policy committees to report to fiscal committees fiscal bills introduced in their house.
(3) May 24	-	Last day for policy committees to report to the floor nonfiscal bills introduced in their house.
(4) June 14	-	Last day for policy committees to meet prior to July 1.
(5) June 21	-	Last day for fiscal committees to

report to the floor bills introduced in their house.

(6) June 21 - Last day for fiscal committees to meet and report bills prior to July 1.

(7) June 28 - Last day for each house to pass bills introduced in their house.

(8) July 1 - Committee meetings may resume.

(9) July 19 - Last day for policy committees to report to fiscal committees fiscal bills introduced in the other house.

(10) Aug 23 - Last day for policy committees to meet and report bills.

(11) Aug 30 - Last day for fiscal committees to meet and report fiscal bills.

(12) Sept 13 - Last day for each house to pass bills.

(b) Even-numbered year:

(1) Jan 17 - Last day for policy committees to hear and report to fiscal committees fiscal bills introduced in their house in the odd-numbered year.

(2) Jan 24 - Last day for any committee to hear and report to the floor bills introduced in their house in the odd-numbered year.

(3) Jan 30 - Last day for each house to pass bills introduced in their house in the odd-numbered year.

(4) Feb 21 - Last day for bills to be introduced.

(5) Apr 18 - Last day for policy committees to hear and report to fiscal committees fiscal bills introduced in their house.

(6) May 9 - Last day for policy committees to hear and report to the floor nonfiscal bills introduced in their house.

(7) May 30 - Last day for policy committees to meet and report bills prior to June 16.

(8) June 6 - Last day for fiscal committees to hear and report to the floor bills introduced in their house.

(9) June 6	-	Last day for fiscal committees to meet and report bills prior to June 16.
(10) June 13	-	Last day for each house to pass bills introduced in their house.
(11) June 16	-	Committee meetings may resume.
(12) July 3	-	Last day for policy committees to hear and report to fiscal committees fiscal bills introduced in the other house.
(13) Aug 8	-	Last day for policy committees to meet and report bills.
(14) Aug 15	-	Last day for fiscal committees to meet and report fiscal bills.
(15) Aug 29	-	Last day for each house to pass bills.

(c) If a bill is acted upon in committee before the relevant deadline and the committee votes to report the bill out with amendments that have not at the time of the vote been prepared by the Legislative Counsel, the Secretary of the Senate and the Chief Clerk of the Assembly may subsequently receive a report recommending the bill for passage or for rereferral together with the amendments at any time within two legislative days after the deadline.

(d) Bills in the house of origin not acted upon during the odd-numbered year as a result of the deadlines imposed in subdivision (a) may be acted upon when the Legislature reconvenes after the interim study joint recess, or at any time the Legislature is recalled from the interim study joint recess.

(e) The deadlines imposed by this rule shall not apply to the rules committees of the respective houses.

(f) The deadlines imposed by this rule shall not apply in instances where a bill is referred to committee under Rule 26.5.

(g) Notwithstanding subdivisions (a) and (b), a policy committee or fiscal committee may meet for the purpose of hearing and reporting a constitutional amendment, or a bill which would go into immediate effect pursuant to subdivision (c) of Section 8 of Article IV of the Constitution of California, at any time other than those periods when no committee may meet for any purpose.

(h) This rule may be suspended as to any particular bill by approval of the Committee on Rules and two-thirds vote of the membership of the house.

Committee Procedure

62. (a) Notice of a hearing on a bill by the committee of first reference in each house shall be published in the file at least four days

prior to the hearing. Otherwise, notice shall be published in the file two days prior to the hearing. Such notice may be waived by a majority vote of the house in which the bill is being considered. A bill may be set for hearing in a committee only three times. A bill is "set" for purposes of this subdivision whenever notice of the hearing has been published in the file for one or more days. If a bill is set for hearing, and the committee, on its own initiation and not the author's, postpones the hearing on the bill or adjourns the hearing while testimony is being taken, such hearing shall not be counted as one of the three times a bill may be set. After hearing the bill, the committee may vote on the bill. If the hearing notice in the file specifically indicates that "testimony only" will be taken, such hearing shall not be counted as one of the three times a bill may be set. A committee may not vote on a bill so noticed until it has been heard in accordance with this rule. After a committee has voted on a bill, reconsideration may be granted only one time. Reconsideration may be granted within 15 legislative days or prior to the interim study joint recess, whichever first occurs. A vote on reconsideration cannot be taken without the same notice required to set a bill unless such vote is taken at the same meeting at which the vote to be reconsidered was taken and the author is present. When a bill fails to get the necessary votes to pass it out of committee or upon failure to receive reconsideration, it shall be returned to the Chief Clerk of the Assembly or Secretary of the Senate of the house of the committee and may not be considered further during the session.

This subdivision may be suspended with respect to a particular bill by approval of the Committee on Rules and two-thirds vote of the members of the house.

(b) If the committee adopts amendments other than those offered by the author and orders the bill reprinted prior to its further consideration, the hearing shall not be the final time a bill may be set under subdivision (a) of this rule.

(c) When a standing committee takes action on a bill, the vote shall be by rollcall vote only. All rollcall votes taken by a standing committee shall be recorded by the committee secretary on forms provided by the Chief Clerk of the Assembly and the Secretary of the Senate. The chairman or chairwoman of each standing committee shall promptly transmit a copy of the record of the rollcall votes to the Chief Clerk of the Assembly or the Secretary of the Senate, respectively, who shall cause the votes to be published as prescribed by each house.

The provisions of this subdivision shall also apply to action of a committee on a subcommittee report. The rules of each house shall prescribe the procedure as to rollcall votes on amendments.

Any committee may, with the unanimous consent of the members present, substitute a rollcall from a prior bill, provided that the members whose votes are substituted are present at the time of the substitution.

At no time shall a bill be passed out by a committee without a quorum being present.

The provisions of this subdivision shall not apply to:

(1) Procedural motions which do not have the effect of disposing of a bill.

(2) Withdrawal of a bill from a committee calendar at the request of an author.

(3) Return of bills to the house where the bills have not been voted on by the committee.

(4) The assignment of bills to committee.

(d) The chairman or chairwoman of the committee hearing a bill, may, at any time, order a call of the committee. Upon a request by any member of a committee or the author in person, the chairman or chairwoman shall order the call.

In the absence of a quorum, a majority of the members present may order a quorum call of the committee and compel the attendance of absentees. The chairman or chairwoman shall send the Sergeant at Arms for those members who are absent and not excused by their respective house.

When a call of a committee is ordered by the chairman or chairwoman with respect to a particular bill, he or she shall send the Sergeant at Arms or any other person to be appointed for that purpose for those members who have not voted on that particular bill and are not excused.

A quorum call or a call of the committee with respect to a particular bill may be dispensed with by the chairman or chairwoman without objection by any member of the committee, or by a majority of the members present.

If a motion is adopted to adjourn the committee while the committee is operating under a call, the call shall be dispensed with and any pending vote announced.

The committee secretary shall record the votes of members answering a call. The rules of each house may prescribe additional procedures for a call of a committee.

Uniform Rules

63. No standing committee of either house shall adopt or apply any rule or procedure governing the voting upon bills which is not equally applicable to the bills of both houses.

Votes on Bills

64. Every meeting of each house and standing committee or subcommittee thereof where a vote is to be taken on a bill, or amendments to a bill, shall be public.

Conflicting Rules

65. The provisions of Rule 50 and following of these rules prevail over any conflicting joint rule with a lesser number.

RESOLUTION CHAPTER 10

Senate Concurrent Resolution No. 15—Relative to Family Reunion Month.

[Filed with Secretary of State March 5, 1985.]

WHEREAS, Each year, well over a million Americans disappear and are designated as missing persons, runaways, driftaways, or victims of foul play; and

WHEREAS, Thousands of families in our nation experience anxiety, grief, uncertainty, and frustration over the sudden and tragic disappearance of one of their family members, and this disruption erodes the family unit, the basic foundation of our society; and

WHEREAS, The period beginning with Mother's Day and continuing through Father's Day should be designated as "Family Reunion Month" to coincide with holidays when Americans celebrate the importance of the family; and

WHEREAS, Family Reunion Month will serve to encourage the reunion of families and the reaffirmation of family ties and to encourage runaways and driftaways to utilize the networks which currently exist to reestablish contact with their families; and

WHEREAS, Family Reunion Month also will call attention to the national issues of runaways, driftaways, and other missing persons and their families and, by such action, will enhance the basic strength of our country; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the period of Mother's Day and continuing through Father's Day 1985 be designated as "Family Reunion Month" in the State of California, and that the people of California observe the month with appropriate programs and activities.

RESOLUTION CHAPTER 11

Assembly Concurrent Resolution No. 15—Relative to the creation of the Joint Committee on Public Pension Fund Investments.

[Filed with Secretary of State March 15, 1985]

Resolved by the Assembly of the State of California, the Senate thereof concurring, as follows:

(1) The Joint Committee on Public Pension Fund Investments is hereby created, authorized and directed to ascertain, study and analyze all facts relating to the following:

(a) Increasing the yield on portfolio investments of all Calfiornia public pension funds.

(b) Improving the financial responsibilities of corporations to their public pension fund shareholders, including improved financial information, better communication, and responsive practices concerning shareholder voting rights.

(c) Evaluating portfolio potential, including, but not limited to, the operation, effect, administration, enforcement and needed revision of any and all laws in any way bearing upon or relating to the subject of this resolution.

(2) The committee shall consist of four Members of the Senate, appointed by the Committee on Rules thereof, and four Members of the Assembly, appointed by the Speaker thereof. The chairperson of the committee shall be appointed pursuant to Joint Rule 36.7. Vacancies occurring in the membership of the committee shall be filled by the appointing power.

(3) The committee is authorized to act during the 1985–86 Regular Session of the Legislature, including any recess, until the end of the 1985–86 Regular Session, on which date the committee shall terminate.

(4) The committee and its members shall have and exercise all of the rights, duties and powers conferred upon investigating committees and their members by the provisions of the Joint Rules of the Senate and Assembly as they are adopted and amended from time to time, which provisions are incorporated herein and made applicable to this committee and its members.

(5) The committee has the following additional powers and duties:

(a) To contract with a consultant, if a consultant is not otherwise retained by the Legislature or either house thereof, and to hire necessary staff, as approved by the Chairman or Chief Administrative Officer of the Joint Rules Committee.

(b) To appoint an advisory committee consisting of persons knowledgeable in the subject of investment of pension funds, to assist the committee, the Assembly Committee on Public Investments, Finance and Bonded Indebtedness, and staff.

(c) To make recommendations regarding ways to improve the rate of return on California public pension funds.

(d) To contract with such other agencies, public or private, as it deems necessary for the rendition and affording of such services, facilities, studies and report to the committee as will best assist it to carry out the purposes for which it is created.

(e) To cooperate with and secure the cooperation of county, city, city and county, and other local law enforcement agencies in

investigating any matter within the scope of this resolution and to direct the sheriff of any county to serve subpoenas, orders and other process issued by the committee.

(f) To obtain, with the approval of the Chairman or Chief Administrative Officer of the Joint Rules Committee, all necessary office space, equipment, and materials.

(g) To do any and all other things necessary or convenient to enable it fully and adequately to exercise its powers, perform its duties, and acccomplish the objects and purposes of this resolution.

(6) The committee, through its staff and its consultant, in achieving the objective specified in subdivision (a) of Section (1), shall do the following:

(a) Analyze all California public pension funds to determine how well they maximize income and minimize costs.

(b) Determine, for each California public pension fund, but without considering any statutory or constitutional limit, and assuming an acceptable risk and taking into account the portfolio size, a real investment return potential.

(c) Determine the extent to which each fund falls short of the real investment return potential determined pursuant to subdivision (b).

(d) As to any fund not reaching the real investment return potential, identify the reasons therefor.

(e) Determine what changes should be made by amending the Constitution, statutes, or administrative regulations and what organizational changes should be made, including budget, hiring of advisers as independent contractors, hiring of traders as independent contractors, and the use of electronic data equipment.

(7) The committee, through its staff and its consultant, in achieving the goal specified in subdivision (b) of Section (6), shall do all of the following:

(a) Determine the potential for providing additional income without sacrificing risk or return.

(b) Determine the extent to which the funds now fall short of achieving additional income.

(c) Determine the identifiable reasons for failures to meet the potential.

(d) Determine what changes should be made by amending the Constitution, statutes, or administrative regulations and what organizational changes should be made, including budget, hiring of advisers as independent contractors, hiring of traders as independent contractors, and the acquisition or modification of electronic data equipment.

(8) The committee, through its staff and its consultant, in achieving the objectives specified in subdivision (c) of Section (1), shall do the following:

(a) Test a variety of investment hypotheses.

(b) Determine the effects on yield by share voting and alternative investments, through analysis using costs and time and the utilization of computers.

(9) The consultant retained by the Legislature shall work with the committee, the advisory committee, and the members and staff of the Assembly Committee on Public Investments, Finance and Bonded Indebtedness and the Joint Legislative Retirement Committee, and shall provide assistance to the author of any resulting bill.

(10) The consultant retained by the Legislature shall meet with the administrators and the administering bodies of the public and private pension funds to attempt to implement recommended organizational changes and any legislative changes in order to accomplish the recommendations of the consultant which have been approved by the committee, and by the Assembly Committee on Public Investments, Finance and Bonded Indebtedness, or the Joint Legislative Retirement Committee.

(11) The Senate Committee on Rules or the Assembly Committee on Rules may make such money available from the contingent funds under their respective direction and control as they deem necessary for expenses of the joint committee and its members. Any expenditure of money shall be made in compliance with policies set forth by the rules committee making the money available and shall be subject to approval of that rules committee. The joint committee shall, within 15 days of authorization and annually thereafter, present its annual budget to the Joint Rules Committee for its review and comment.

RESOLUTION CHAPTER 12

Assembly Joint Resolution No. 24—Relative to developmental disabilities funding.

[Filed with Secretary of State March 15, 1985]

WHEREAS, Since 1970 the State of California has been receiving Developmental Disabilities Act funds from the federal government for researching, planning, and monitoring activities on behalf of citizens with "developmental disabilities"; and

WHEREAS, California has used this federal funding to support the State Council on Developmental Disabilities, the Area Boards on Developmental Disabilities, the University Affiliated Facilities, and Protection and Advocacy, Inc.; and

WHEREAS, The Developmental Disabilities Act of 1984 (P L. 98-527) was signed by President Reagan and became effective on October 19, 1984; and

WHEREAS, Pursuant to Sections 122 and 142, the act established new requirements which the state must comply with and implement by March 15, 1985, in order to continue receiving federal funds; and

WHEREAS, The federal Administration on Developmental

Disabilities issued program instructions on November 9, 1984, requiring certain assurances from California's State Council on Developmental Disabilities and Protection and Advocacy, Inc. relative to the new requirements and as a condition for continued receipt of federal funds; and

WHEREAS, Assurances that the new requirements will be met must be submitted to Regional Office IX of the Administration on Developmental Disabilities not later than March 15, 1985, or continued funding for the formula grant awards for the third and fourth quarters will not be issued to California; and

WHEREAS, Certain statutory changes to the Lanterman Developmental Disabilities Act will be necessary before the assurances can be given; and

WHEREAS, A.B. 41 (Margolin) has been introduced with the intent of making the necessary statutory changes, but the bill cannot be enacted with the requisite statutory changes to become effective by March 15, 1985; now, therefore, be it

Resolved by the Assembly and Senate of the State of California jointly, That the Legislature of the State of California affirms its intent to proceed diligently to enact legislation to make statutory changes necessary to facilitate compliance with and implementation by the state of the new requirements of the Developmental Disabilities Act of 1984 (P.L. 98-527); and be it further

Resolved, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States and the federal Administration on Developmental Disabilities to continue federal funding participation in the state's developmental disabilities programs with the understanding that the state is moving diligently toward full compliance with the law; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the federal Administration on Developmental Disabilities.

RESOLUTION CHAPTER 13

Assembly Concurrent Resolution No. 10—Relative to National Agriculture Week.

[Filed with Secretary of State March 19, 1985.]

WHEREAS, Agriculture is California's leading industry, providing a vital link in a chain, either directly or indirectly, involving millions of Californians in getting food from the farmer's field to the

consumer; and

WHEREAS, California's agricultural productivity forms the cornerstone of the state's economy, contributing nearly fifteen billion dollars ($15,000,000,000) in gross farm receipts from the production of 250 different crops and livestock products; and

WHEREAS, California is the leading agricultural state in the United States, with nine of the nation's top 12 agriculture producing counties located in the state, and California's food and fiber is a vital ingredient in our strength as a nation, both domestically and on the world scene; and

WHEREAS, California, recognizing the importance of youth in agriculture, boasts one of the finest agricultural educational systems in the world, with its universities and colleges being leading innovators of research and development in everything from farm implements to crop strains; and

WHEREAS, Farmworkers from all corners of the world have come to California and have become indispensable partners in the achievements of California's most important industry; and

WHEREAS, Farmworkers have tilled the soil, sowed the seeds, and harvested the crops of this rich agricultural state; and

WHEREAS, These workers have provided food and fiber in abundance for the people in the cities, the nation, and the world and have, thus, contributed greatly to the economy of California; and

WHEREAS, To maintain a healthy industry and promote a better economy, it is necessary that all of the people in the United States should be aware of, and have an interest in, the manner in which agriculture affects their everyday lives; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby proclaims the week of March 17 through March 23, 1985, as "National Agriculture Week" and March 20, 1985, as "Agriculture Day"; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Governor and to the President of the United States.

RESOLUTION CHAPTER 14

Senate Concurrent Resolution No. 27—Relative to the 75th anniversary of Camp Fire, Inc.

[Filed with Secretary of State March 25, 1985]

WHEREAS, March 23, 1985 marks the 75th anniversary of the founding of Camp Fire, Inc., an organization which throughout its history has helped to enrich the lives of millions of young people; and

WHEREAS, Through a program of informal education, Camp Fire seeks to provide young people with opportunities to realize their

potential and to function effectively as caring, self-directed individuals responsible to themselves and to others; and

WHEREAS, Originally known as the Camp Fire Girls, the organization's tradition of reaching out to children with varying needs led it to open its programs to boys; and

WHEREAS, In 1978, the Camp Fire Girls thus officially became Camp Fire, Inc.—the first co-ed national youth organization in the United States; and

WHEREAS, Camp Fire's motto, "Give Service," and its watchword, "Wohelo", which stands for work, health, and love, represent the goals of its 75 years of positive outreach to youth; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature of the State of California commends Camp Fire, Inc. on the occasion of its 75th anniversary and conveys best wishes for Camp Fire's continued success; and be it further

Resolved, That the Legislature acknowledges and applauds the magnificent and worthwhile accomplishments of Camp Fire, Inc., which have touched the lives of countless young people since 1910; and be it further

Resolved, That the Legislature urges all Californians to become involved in the vital and rewarding activities of their local Camp Fire organizations; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to Camp Fire, Inc.

RESOLUTION CHAPTER 15

Assembly Concurrent Resolution No. 9—Relative to child abuse.

[Filed with Secretary of State April 2, 1985.]

WHEREAS, The problem of child abuse is rapidly growing both in size and severity; and

WHEREAS, Children are a precious resource of this state; and

WHEREAS, Persons abused as children are prone to developmental and educational disabilities and more likely to commit violent crimes as adults; and

WHEREAS, Child abuse and neglect prevention and intervention programs help protect children, stabilize families, and contribute to a reduction in crime; and

WHEREAS, Effective child abuse prevention programs can save lives, avoid physical and emotional suffering; and

WHEREAS, The California Legislature is deeply concerned about the plight of the victims of child abuse in the state, and has made a commitment to combating child abuse; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the month of April 1985 shall be designated Child Abuse Prevention Month in the State of California.

RESOLUTION CHAPTER 16

Assembly Concurrent Resolution No. 11—Relative to Holocaust Memorial Week.

[Filed with Secretary of State April 2, 1985]

WHEREAS, Forty years have passed since the tragic events we now call the Holocaust; and

WHEREAS, The Holocaust was a tragedy of proportions the world had never before witnessed; and

WHEREAS, There are some who dispute that the Holocaust ever occurred, but we must be reminded of the reality of the Holocaust's horrors so they will never be repeated; and

WHEREAS, The United States Holocaust Memorial Council has designated the week of April 14 through 21, 1985, as Holocaust Memorial Week—Days of Remembrance for Victims of the Holocaust; and

WHEREAS, April 18, 1985, is Yom HaSho'ah, and it has been designated internationally as a day of remembrance for victims of the Holocaust; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the week of April 14 through 21, 1985, is proclaimed as Holocaust Memorial Week in California, and that Californians are urged to observe appropriately these Days of Remembrance for Victims of the Holocaust; and be it further

Resolved, That the Chief Clerk of the Assembly transmit two copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 17

Assembly Concurrent Resolution No. 13—Relative to Earthquake Preparedness Week.

[Filed with Secretary of State April 2, 1985.]

WHEREAS, Most seismologists predict that there will be a major earthquake somewhere in California in the coming decades; and

WHEREAS, A primary means for minimizing the risks of injury and loss of life and damage to property is to make the public aware of all possible earthquake safety measures and precautions; and

WHEREAS, A cooperative effort between the Legislature and the

state and local governments will be most effective in developing that public awareness; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby proclaims the week of April 15 to 20, 1985, as California Earthquake Preparedness Week and urges all Californians to engage in appropriate earthquake safety-related activities during that week; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Governor, the Seismic Safety Commission, the Office of Emergency Services, the Board of Supervisors of the County of Los Angeles, and the City Council of the City of Los Angeles.

RESOLUTION CHAPTER 18

Senate Concurrent Resolution No. 29—Relative to the proposed move of a National Basketball Association franchise to Sacramento.

[Filed with Secretary of State April 9, 1985]

WHEREAS, The Sacramento Sports Association, owner of the Kansas City Kings professional basketball team of the National Basketball Association (NBA), has applied to the NBA for permission to move the team to Sacramento in time for the 1985–86 season; and

WHEREAS, Sacramento is the largest metropolitan area in the United States without any professional sports franchise, while 11 other metropolitan areas with smaller populations currently enjoy major league athletics; and

WHEREAS, The Sacramento Sports Association is building a 10,000-seat arena to serve as a home for the Kings until a 16,000-seat permanent arena can be completed sometime in 1987; and

WHEREAS, Over 8,000 Sacramentans pledged (in a period of less than 3 weeks) to purchase over 20,000 Kings season tickets; and

WHEREAS, The business and political leaders, the media, and the residents of the Sacramento area have universally expressed their enthusiasm for the prospect of Sacramento's becoming the permanent home of the Kings; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Board of Governors of the National Basketball Association is urged to give its official approval to the proposed move of the Kansas City Kings franchise to Sacramento; and be it further

Resolved, That the Legislature of the State of California supports and encourages the people of the Sacramento metropolitan area in their expression of enthusiasm in support of the move of the Kings to Sacramento; and be it further

Resolved, That the Secretary of the Senate transmit copies of this

resolution to the Board of Governors of the National Basketball Association and to the Sacramento Sports Association.

RESOLUTION CHAPTER 19

Senate Joint Resolution No. 2—Relative to famine relief for Ethiopia.

[Filed with Secretary of State April 15, 1985]

WHEREAS, 7,500,000 people are starving in Ethiopia; and

WHEREAS, The need for grain, other food, clothing, blankets, and medical care increases daily; and

WHEREAS, Relocation and improved and increased food distribution could substantially ameliorate those problems; however, the existing transportation system is in dire need of additional airplanes, buses, trucks, spare parts, and fuel; and

WHEREAS, Californians and Americans have reached out to those disadvantaged at home and abroad and should continue to do so; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California memorializes the President and Congress of the United States to immediately authorize increased and continued famine relief to Ethiopia, including the provision of agricultural commodities and supply trucks and air transport; and be it further

Resolved, That the President of the United States, through communication with the government of Ethiopia and using any and all other diplomatic means available, have the Ethiopian governmental officials allow food and medical aid to be distributed to all victims of the famine without regard to internal political disagreements; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 20

Assembly Concurrent Resolution No. 7—Relative to recognizing Arbor Day.

[Filed with Secretary of State April 17, 1985.]

WHEREAS, March 7th has been designated as Arbor Day, a day traditionally devoted to conservation and beautification of the landscape; and

WHEREAS, Arbor Day is an annual tree-planting day in virtually every state of the United States, and the Arbor Day movement was established in the 19th Century when a number of public-spirited persons, alarmed by the rapid deforestation of many sections of the United States, urged that trees be planted systematically; and

WHEREAS, The first person to propose a regular Arbor Day was Julius S. Morton of Nebraska, who in 1872, succeeded in inducing his state to set apart a day as Arbor Day; and

WHEREAS, California is blessed with extensive pine and redwood forests, yet the demand for paper, plywood, and other wood-derived commodities has increased substantially over the years, and by the end of this century, given present levels of forest land investment and management, the demand is expected to outstrip supply; and

WHEREAS, Reforestation has been enhanced through the California Forest Improvement Act of 1978, which allocates resources for forest improvement projects, and the 1979 Forest Improvement Fund, which assists the California Department of Forestry in providing technical expertise in forest management, or "silviculture," and, in addition to increasing California's future timber production, these programs will also create additional forests and jobs; and

WHEREAS, Urban areas of California have benefited from the successful Urban Forestry Program, as a result of which more than 100,000 trees have been planted in urban areas by community and private groups under the direction of the Department of Forestry; and

WHEREAS, In addition to aesthetic purpose, trees in urban areas reduce noise, improve air quality, provide watershed protection, reduce soil erosion, store solar energy, alleviate temperature extremes, and provide habitat for "urban wildlife" such as song birds; and

WHEREAS, Investment in tree planting will ensure our children and grandchildren of wood supplies for the future, and will reduce energy consumption and beautify our cities; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the members recognize March 7, 1985, and each March 7th thereafter, as Arbor Day in California, and encourage the people of the state to participate in programs designed for conservation and beautification of the landscape; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a suitably prepared copy of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 21

Assembly Concurrent Resolution No. 20—Relative to the Week of the Young Child.

[Filed with Secretary of State April 17, 1985]

WHEREAS, The public must be more aware of the needs of young children, birth to age eight, and their families in a rapidly changing world; and

WHEREAS, Parents and teachers and others who work with and care for young children must be recognized for their contribution to the good of our society; and

WHEREAS, All people in a civilized society share responsibility for the education and protection of young children; and

WHEREAS, Young children and their families care that developmental and educational services are available, affordable, and of the highest quality; and

WHEREAS, Public policy should clearly reflect the well-being of young children as among the state's highest priorities; and

WHEREAS, In our pluralistic society public and private agencies and institutions must form productive partnerships and offer rich and varied opportunities for the education of young children, parents, and teachers; and

WHEREAS, Education aims to enhance the children's individual qualities, build their self-respect and foster a sense of responsibility for themselves and their community; and

WHEREAS, Young children are intrinsically motivated to learn and need safe environments that are responsive to their developmental needs to become capable citizens of the world; and

WHEREAS, Each generation of young children renew the society with their sense of wonder, energy, eagerness, and vision; and

WHEREAS, In the faces of California children, we see the reflections of many cultures and many peoples who live harmoniously in our state; and

WHEREAS, It is society's responsibility to provide the laws and regulations that enhance the quality of life for young children; and

WHEREAS, Young children represent the reality of today and the hopes and dreams of tomorrow; now, therefore, be it

Resolved, by the Assembly of the State of California, the Senate thereof concurring, That April 20–27, 1985, be proclaimed as the California Week of the Young Child and be coordinated by the California Association for the Education of Young Children in connection with the National Association for the Education of Young Children Week of the Young Child celebrations in the month of April.

RESOLUTION CHAPTER 22

Assembly Joint Resolution No. 11—Relative to water pollution control.

[Filed with Secretary of State April 17, 1985]

WHEREAS, The Louisiana-Pacific and Simpson Paper Company pulp mills have been operating in Humboldt County for 20 years with no detrimental impact on water quality; and

WHEREAS, The two mills have been continually monitored by the State of California water quality agencies and have always met the state's strict standards; and

WHEREAS, The companies, the state agencies, local governmental officials, area residents, and representatives of major environmental groups agree that further treatment of the effluent from the pulp mills would have no beneficial effect, but instead would create environmental burdens, including offensive odors, increased air pollution, and increased energy consumption; and

WHEREAS, The United States Congress recognized that construction of secondary treatment plants at the two mills would produce harmful environmental effects with no environmental benefits and therefore passed an amendment permitting these two uniquely situated mills to apply for a waiver from the Environmental Protection Agency rule requiring secondary treatment; and

WHEREAS, The Environmental Protection Agency chose to tentatively deny those applications for waiver; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Environmental Protection Agency to reverse its tentative decision, and grant a waiver to the Louisiana-Pacific and Simpson Paper Company mills in Humboldt County so that unnecessary environmental and economic costs can be avoided; and be it further

Resolved, That, if the variance is granted, the mills are requested to continue to adhere to the strict environmental standards of the State of California and to fund research in water pollution control that can be shared with similar mills throughout the state and nation; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Administrator of the Environmental Protection Agency.

RESOLUTION CHAPTER 23

Senate Concurrent Resolution No. 18—Relative to chiropractic care.

[Filed with Secretary of State April 29, 1985.]

WHEREAS, Good physical health and a sense of wellness are essential elements of a productive and enjoyable life; and

WHEREAS, The chiropractic profession has for several decades helped Californians achieve and maintain good health through use of the body's own restorative powers; and

WHEREAS, Chiropractic care has benefited millions of California's citizens; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature of the State of California recognizes the devoted care which doctors of chiropractic have bestowed upon their patients in this state; and be it further

Resolved, That the Legislature designates the week of Monday, April 29 through Sunday, May 5, 1985, as California Chiropractic Wellness Week; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to Dr. Kurt Hegetschweiler, President of the California Chiropractic Association, and to the Chairperson of the Board of Chiropractic Examiners.

RESOLUTION CHAPTER 24

Assembly Concurrent Resolution No. 19—Relative to California Small Business Week.

[Filed with Secretary of State April 29, 1985.]

WHEREAS, The President of the United States of America, by proclamation, will designate the week of May 6 through May 12, 1985, as Small Business Week in special tribute to the outstanding contributions of small businesswomen and businessmen of this nation; and

WHEREAS, Two million of the nation's 14 million small businesses are here in California, employing 10 million people; and

WHEREAS, These small businesses provide industrial innovation which gives California its competitive edge; and

WHEREAS, The entrepreneurship and productivity of small businesswomen and businessmen constitute the core of the American free enterprise system; and

WHEREAS, Small businesses provide the vast majority of the job opportunities for women, youth, minorities, and displaced workers; and

WHEREAS, The economic health of California depends, in large measure, on the prospects of the state's small businesses; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Governor is hereby requested, in conjunction with the national designation thereof, to proclaim the week of May 6 through May 12, 1985, as California Small Business Week, in special recognition of the contributions which small businesswomen and businessmen have made, and will continue to make, to our state; and be it further

Resolved, That a suitably prepared copy of this resolution be transmitted to the Governor of the State of California.

RESOLUTION CHAPTER 25

Assembly Concurrent Resolution No. 4—Relative to the California Law Revision Commission.

[Filed with Secretary of State April 29, 1985]

WHEREAS, The California Law Revision Commission is authorized to study only topics set forth in the calendar contained in its report to the Governor and the Legislature which are thereafter approved for study by concurrent resolution of the Legislature, and topics which have been referred to the commission for study by concurrent resolution of the Legislature; and

WHEREAS, The commission, in its annual report covering its activities for 1984, lists 23 topics, all of which the Legislature has previously authorized or directed the commission to study; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature approves for continued study by the California Law Revision Commission the topics listed below, all of which the Legislature has previously authorized or directed the commission to study:

Whether the law relating to creditors' remedies (including, but not limited to, attachment, garnishment, execution, repossession of property (including the claim and delivery statute, self-help repossession of property, and the Commercial Code repossession of property provisions), civil arrest, confession of judgment procedures, default judgment procedures, enforcement of judgments, the right of redemption, procedures under private power of sale in a trust deed or mortgage, possessory and nonpossessory liens, and related matters) should be revised;

(2) Whether the California Probate Code should be revised, including, but not limited to, whether California should adopt, in whole or in part, the Uniform Probate Code;

(3) Whether the law relating to real and personal property (including, but not limited to, a Marketable Title Act, covenants, servitudes, conditions, and restrictions on land use or relating to land, possibilities of reverter, powers of termination, Section 1464 of the Civil Code, escheat of property and the disposition of unclaimed or abandoned property, eminent domain, quiet title actions, abandonment or vacation of public streets and highways, partition, rights and duties attendant upon termination or abandonment of a lease, powers of appointment, and related matters) should be revised;

(4) Whether the law relating to family law (including, but not limited to, community property) should be revised;

(5) Whether the law relating to the award of prejudgment interest in civil actions and related matters should be revised;

(6) Whether the law relating to class actions should be revised;

(7) Whether the law relating to offers of compromise should be revised;

(8) Whether the law relating to discovery in civil cases should be revised;

(9) Whether a summary procedure should be provided by which property owners can remove doubtful or invalid liens from their property, including a provision for payment of attorney's fees to the prevailing party;

(10) Whether acts governing special assessments for public improvements should be simplified and unified;

(11) Whether the law on injunctions and related matters should be revised;

(12) Whether the law relating to involuntary dismissal for lack of prosecution should be revised;

(13) Whether the law relating to statutes of limitations applicable to felonies should be revised;

(14) Whether the law relating to the rights and disabilities of minors and incompetent persons should be revised;

(15) Whether the law relating to custody of children, adoption, guardianship, freedom from parental custody and control, and related matters should be revised;

(16) Whether the Evidence Code should be revised;

(17) Whether the law relating to arbitration should be revised;

(18) Whether the law relating to modification of contracts should be revised;

(19) Whether the law relating to sovereign or governmental immunity in California should be revised;

(20) Whether the decisional, statutory, and constitutional rules governing the liability of public entities for inverse condemnation should be revised (including, but not limited to, liability for damages resulting from flood control projects) and whether the law relating to the liability of private persons under similar circumstances should be revised;

(21) Whether the law relating to liquidated damages in contracts

generally, and particularly in leases, should be revised;

(22) Whether the parole evidence rule should be revised;

(23) Whether the law relating to pleadings in civil actions and proceedings should be revised; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the California Law Revision Commission.

RESOLUTION CHAPTER 26

Assembly Concurrent Resolution No. 51—Relative to "Save Your Vision Month."

[Filed with Secretary of State April 29, 1985]

WHEREAS, In order to help educate the public regarding the necessity for vision care, checkups, and treatment, it would be appropriate to designate the month of April 1985, as "Save Your Vision Month;" and

WHEREAS, Many learning and behavior problems have been attributed to poor eyesight; and

WHEREAS, Vision checkups by a licensed optometrist or a licensed physican and surgeon specializing in the practice of ophthalmology should be a regular part of the family health routine and should start early in life; and

WHEREAS, Since it is important that an eye examination be thorough and methodical, it is essential that an eye examination be conducted by these licensed professionals, who will include in the examination external and internal examination of eyes for signs of disease, tests for glaucoma, detection of possible cataracts, determination of how one's eyes work together, how the eyes react to light, whether they are color sensitive, and tests for depth perception; and

WHEREAS, It is recognized that the following symptoms suggest the need for a medical eye examination: blurry vision uncorrectable by lenses, double vision, dimming of vision that comes and goes, or sudden loss of vision, red eye, eye pain, loss of side vision, halos (colored rays or circles around lights), crossed, turned, or wandering eye, twitching or shaking eye, flashes or streaks of light, new floaters (spots, strings, or shadows), discharge, crusting, or excessive tearing, swelling of any part of the eye, bulging of one or both eyes, difference in the size of the eyes, and diabetes; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the month of April 1985 shall be designated as "Save Your Vision Month" in the State of California

RESOLUTION CHAPTER 27

Assembly Concurrent Resolution No. 24—Relative to the National Day of Prayer.

[Filed with Secretary of State April 29, 1985]

WHEREAS, Deep religious beliefs inspired many of the early settlers of our country, providing them with the strength, character, convictions, and faith necessary to withstand great hardship and danger in this new and rugged land; and

WHEREAS, These shared beliefs helped forge a sense of common purpose among the widely dispersed colonies—a sense of community which laid the foundation for the spirit of nationhood that was to develop in later decades; and

WHEREAS, Whether at the landing of our forebears in New England and Virginia, the ordeal of the Revolutionary War, the stormy days of binding the 13 Colonies into one country, the Civil War, or other moments of trial over the years, we have turned to God in prayer for His help; and

WHEREAS, As we crossed and settled a continent, built a Nation in freedom, and endured war and critical struggles to become the leader of the Free World and a sentinel of liberty, we repeatedly turned to our Maker for strength and guidance in achieving the awesome tasks before us; and

WHEREAS, The attitudes we have as people united together, caring for each other, committed to freedom, holding high the dignity of each person, we practice through prayer that which we derived from our religious heritage; and

WHEREAS, Since April 17, 1952, the recognition of a particular day each year as a National Day of Prayer has become part of the traditions we have as a people and is a day on which we are invited to turn to God in prayer and meditation in places of worship, in groups, and as individuals; and

WHEREAS, Ronald Reagan, President of the United States of America, has proclaimed Thursday, May 2, 1985, as "National Day of Prayer"; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby recognizes Thursday, May 2, 1985, as "National Day of Prayer" and calls upon the people of California, each according to his or her faith, to gather together on that day in homes and places of worship to pray for unity of the hearts of all mankind, and be it further

Resolved, That the Chief Clerk of the Assembly transmit a suitably prepared copy of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 28

Assembly Joint Resolution No. 42—Relative to oil and gas leases.

[Filed with Secretary of State April 29, 1985.]

WHEREAS, The United States Department of the Interior has announced a five-year program to open all of California's offshore waters for oil and gas leasing; and

WHEREAS, Under this program, lease sales for areas previously closed to oil and gas development would occur for southern California in April 1987 and 1990, for central California in May 1989, and for northern California in December 1987 and 1990; and

WHEREAS, No national energy development plan exists to provide for the orderly development of energy resources to match national needs; and

WHEREAS, No national need has been demonstrated for additional offshore oil and gas leasing in California; and

WHEREAS, The abundant sea life and beauty of California's coast and ocean waters provide unique recreational and fishing opportunities for the citizens of the state and nation; and

WHEREAS, In 1983 tourism contributed approximately 28.5 billion dollars to the economy of the state while the value of oil and gas extracted from California and areas offshore totaled only approximately 10.5 billion dollars; and

WHEREAS, Oil platforms, oil spills, interference with fishing activities, and other actual and potential adverse effects from oil development are likely to cause irreparable harm to the resources of the coast; and

WHEREAS, The federal government has not yet satisfactorily addressed impacts to California from present offshore oil and gas production through revenue sharing as required by Section 8(g) of the federal Outer Continental Shelf Lands Act, as amended by Section 205 of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. Sec. 133(g)); and

WHEREAS, The United States Congress, in adopting the federal Outer Continental Shelf Lands Act Amendments of 1978, directed the Department of the Interior to prepare and maintain the leasing program in a manner consistent with the principle that "(m)anagement of the Outer Continental Shelf shall be conducted in a manner which considers economic, social, and environmental values of the renewable and nonrenewable resources contained in the outer Continental Shelf, and the potential impact of oil and gas exploration on other resource values of the outer Continental Shelf and the marine, coastal, and human environments" (43 U.S.C. Sec. 1344(a)(1)); and

WHEREAS, For the past four years the United States Congress has expressed its concern over oil and gas development off California by adopting lease moratoria for the areas now included in the proposed

lease program of the Department of the Interior; and

WHEREAS, California's citizens and local government have repeatedly stated that leasing of many of the areas proposed by the Department of the Interior presents unacceptable risks to economic, social, human, and natural environments far in excess of the value of projected oil resources; and

WHEREAS, The Legislature of the State of California has consistently expressed its opposition to leasing of the areas proposed in the Department of the Interior's program through passage of resolutions such as Assembly Joint Resolution 19 in 1981 and Assembly Joint Resolutions 86 and 95 in 1984; and

WHEREAS, The federal Outer Continental Shelf Lands Act permits the Governor to respond within 60 days with comments and suggestions on proposed lease programs; and

WHEREAS, California has prohibited offshore oil leases in most state waters adjacent to the areas proposed for leasing by the Secretary of the Interior; and

WHEREAS, California is likely to lose potential revenues from state-owned oil through drainage to federal leasees under the Secretary of the Interior's proposal; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California memorializes the President of the United States and the Secretary of the Interior to delete from the proposed oil and gas leasing program all offshore areas adjacent to state-owned tide and submerged lands where oil leases are currently prohibited and all areas offshore California north of the seaward extension of the Mendocino-Sonoma County line; and be it further

Resolved, That the Legislature of the State of California hereby respectfully requests that the Governor recommend to the Secretary of the Interior that the federal offshore areas adjacent to state-owned tide and submerged lands where oil leases are currently prohibited and all areas offshore California north of the seaward extension of the Mendocino-Sonoma County line be deleted from the proposed oil and gas leasing program; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of the Interior, to each Senator and Representative from California in the Congress of the United States, and to the Governor.

RESOLUTION CHAPTER 29

Senate Joint Resolution No. 21—Relative to the proposed visit of the President of the United States to a military cemetery at Bitburg, West Germany.

[Filed with Secretary of State May 1, 1985.]

WHEREAS, Hundreds of thousands of American and allied servicemen and women lost their lives in World War II in one of history's clearest demonstrations of the forces of good arrayed against evil; and

WHEREAS, Thousands of Americans lost their lives in the Battle of the Bulge, and countless civilians were massacred in combat and other actions undertaken by Nazi SS Storm Troopers in violation of the Geneva Convention; and

WHEREAS, Millions of Slavs and peoples of other nationalities were killed in Nazi Germany's attempt to subjugate and enslave whole nations; and

WHEREAS, Millions of Jews and Gypsies were exterminated in the unfathomable annihilation of the Holocaust; and

WHEREAS, The wrong message may be sent to a neo-Nazi movement in our own country striving towards a resurgence if an inappropriate symbol is communicated from the vicinity of the gravesites of Nazi SS Storm Troopers; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That, out of profound respect for the aforementioned persons who lost their lives during World War II, the Legislature of the State of California implores the President of the United States neither to visit the military cemetery at Bitburg, West Germany nor to lay a wreath there; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the President of the United States.

RESOLUTION CHAPTER 30

Senate Concurrent Resolution No. 2—Relative to designating 1985 the Year of the Child.

[Filed with Secretary of State May 6, 1985]

WHEREAS, The children of the State of California comprise our most precious asset; and

WHEREAS, The United Nations has declared that 1985 is International Youth Year; and

WHEREAS, An enormous effort to reform our educational system to better prepare our children for their future role in society has been a continuing state priority; and

WHEREAS, The tragic dimensions of child abuse, molestation, neglect, and violence are beginning to receive extensive attention through the Legislature and our criminal justice systems; and

WHEREAS, The child care needs of our state are significantly unmet; and

WHEREAS, A primary responsibility of the Legislature is the

general welfare of its citizens, especially the youngest population; and

WHEREAS, By 1990, the majority of women with school age children will be working; and

WHEREAS, In California, between 800,000 and 1,000,000 children are categorized as latchkey children due to unavailability of space, affordability of care, and location, among other factors; and

WHEREAS, The need for better education, more protections, and more thoughtful responses to abuse victims and the crisis in child care have all been documented by various groups and experts of the State of California; and this documented data clearly indicates a connection between those areas; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature hereby declares that 1985 be recognized as the Year of the Child, and be it further

Resolved, That the Legislature will continue to give priority to issues relating to children and their care and that the Legislature urges the Governor and each appropriate state agency join in these efforts.

RESOLUTION CHAPTER 31

Senate Concurrent Resolution No. 11—Relative to California Wine Week.

[Filed with Secretary of State May 7, 1985]

WHEREAS, Thanksgiving is traditionally a time for offering thanks for the bounty of our harvest and the blessings of our lives; and

WHEREAS, Wine is one of California's best known and most appreciated products, nationally as well as internationally; and

WHEREAS, California winemakers work diligently to produce the highest quality wine to please consumers whose interest in wine has increased as more varieties of wine have become available; and

WHEREAS, In 1984, Governor George Deukmejian declared the week following Thanksgiving as California Wine Week in conjunction with the 9th Annual California Wine Festival, which was held in Monterey, California's first capitol; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature proclaims that Thanksgiving Day and one week thereafter each year shall be permanently known as California Wine Week to coincide with the Thanksgiving holiday and the coming of the Christmas season.

RESOLUTION CHAPTER 32

Assembly Concurrent Resolution No. 56—Relative to Toxic Awareness Week.

[Filed with Secretary of State May 8, 1985]

WHEREAS, One year ago, on May 14, 1984, a hazardous waste spill occurred in the City of Santa Barbara, California; and

WHEREAS, This hazardous waste spill resulted in the evacuation of 3,500 people from the center of town; and

WHEREAS, The training and preparedness of the emergency response to this disaster averted tragedy; and

WHEREAS, This hazardous waste accident has been the largest metropolitan hazardous waste accident in recent California history; and

WHEREAS, The transportation of hazardous materials through densely populated areas is a daily and frequent occurrence; and

WHEREAS, The transporters of these materials do not always employ all possible safety precautions; and

WHEREAS, A hazardous material accident could result in injuries or deaths or in the evacuation of the residents of the cities through which the transporters of hazardous materials must pass; and

WHEREAS, Maintaining public health and safety is a prime responsibility of the State of California; and

WHEREAS, Hazardous wastes and hazardous materials are a threat to the health and safety of the citizens of California; and

WHEREAS, Despite the care taken by producers and transporters of hazardous materials, accidents and unforeseen dangers may occur; and

WHEREAS, It is critical that all individuals be aware of the dangers of hazardous materials and the safety precautions necessitated by the use of these materials; now, therefore, be it

Resolved, by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby proclaims the week of May 12, 1985, as "Toxic Awareness Week," to commemorate the toxic spill of May 14, 1984, in the City of Santa Barbara; and be it further

Resolved, That the Legislature urges all Californians to reflect upon the role that hazardous materials play in the state's daily domestic and commercial existence; and be it further

Resolved, That the Legislature encourages California's public schools and businesses to sponsor programs to inform students and employees of those accident prevention measures that should be taken when dealing with hazardous materials and proper emergency responses to hazardous waste accidents; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Mayor and City Council of the City of Santa Barbara and the Board of Supervisors of the County of Santa Barbara.

RESOLUTION CHAPTER 33

Senate Concurrent Resolution No. 32—Relative to classified school employees.

[Filed with Secretary of State May 10, 1985]

WHEREAS, Classified school employees provide valuable services to California's public schools and community colleges; and

WHEREAS, Classified school employees contribute to the establishment and promotion of a positive instructional environment; and

WHEREAS, Classified school employees play a vital role in providing for the welfare and safety of California's schoolchildren and students; and

WHEREAS, Classified school employees strive for excellence in all areas relative to the California educational community; and

WHEREAS, The California State Legislature recognizes the contribution of classified school employees to quality education in California; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature hereby declares that the week of May 19 through May 25, 1985, is designated Classified School Employee Week in this state; and be it further

Resolved, That copies of this resolution be transmitted by the Secretary of the Senate to the Superintendent of Public Instruction and the Board of Governors of the California Community Colleges.

RESOLUTION CHAPTER 34

Assembly Concurrent Resolution No. 33—Relative to the Winter Olympics at Lake Tahoe area.

[Filed with Secretary of State May 14, 1985]

WHEREAS, The international Olympic games have historically been man's most successful effort at bringing together the peoples of the world in international competition; and

WHEREAS, The Olympic games have been held successfully in the United States, most recently the 1984 Summer Olympics in Los Angeles; and

WHEREAS, The Winter Olympics of 1960 at Squaw Valley, California, created pride in and recognition of the winter recreation capabilities of the Lake Tahoe area and were a factor in the development of one of the finest areas for winter sports in the world; and

WHEREAS, The area surrounding Lake Tahoe has many of the finest facilities for recreational activities in the winter and served as

a gateway to the Summer Olympics of 1984 in Los Angeles; and

WHEREAS, The City of Reno, through its agent, the Reno/Tahoe Winter Games Organizing Committee, Inc., is endeavoring to bring the Winter Olympics to this area; and

WHEREAS, The citizens of California, particularly the citizens in the area surrounding Lake Tahoe, would benefit in many ways when the winter Olympic games are staged in the Reno/Lake Tahoe area; and

WHEREAS, The hosting of the games would bring worldwide attention to the fact that this area is capable of providing a large variety of recreational activities in the winter, and this area would be known internationally for many years to come for its recreational facilities; now, therefore, be it

Resolved by the Assembly of the State of California, and the Senate thereof concurring, That the Legislature supports the Reno/Tahoe Winter Games Organizing Committee, Inc. in its attempts to bring the winter Olympics to this area; and be it further

Resolved, That the Legislature commends and encourages the committee in its efforts to achieve its stated goals; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to members of the United States Olympic Committee, the International Olympic Committee, and the Reno/Tahoe Winter Games Organizing Committee.

RESOLUTION CHAPTER 35

Assembly Concurrent Resolution No. 45—Relative to Senior Citizens' Health Week.

[Filed with Secretary of State May 20, 1985.]

WHEREAS, Senior citizens reflect a growing percentage of our state's population; and

WHEREAS, The well-being and self-sufficiency of senior citizens are greatly affected by their health; and

WHEREAS, Health problems of senior citizens are further compounded by the inaccessibility or by the unavailability of services; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the California Legislature declare the week of May 25 to 31, 1985, as Senior Citizens' Health Week.

RESOLUTION CHAPTER 36

Assembly Concurrent Resolution No. 66—Relative to California Travel and Tourism Week.

[Filed with Secretary of State May 20, 1985]

WHEREAS, California has been and continues to be the number one travel destination in the United States; and

WHEREAS, Californians proudly and warmly welcome more than 100 million domestic and international visitors annually; and

WHEREAS, The state's diversity in natural and manmade attractions provides points of interest for all visitors; and

WHEREAS, Travel and tourism represent a major force in California's economic life, generating over $28 billion and supporting nearly 600,000 jobs; and

WHEREAS, California is celebrating the launching of its first tourism marketing campaign; and

WHEREAS, The week of May 19 through May 25, 1985, has been designated by Congress as National Tourism Week in recognition of this thriving industry; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby proclaims the week of May 19 through May 25, 1985, as "California Travel and Tourism Week"; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to California's major tourism industry representatives.

RESOLUTION CHAPTER 37

Assembly Concurrent Resolution No. 70—Relative to the Joint Committee on Public Pension Fund Investments.

[Filed with Secretary of State May 20, 1985]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the membership of the Joint Committee on Public Pension Fund Investments is hereby changed to five Members of the Senate, appointed by the Committee on Rules thereof, and five Members of the Assembly, appointed by the Speaker thereof.

RESOLUTION CHAPTER 38

Assembly Joint Resolution No. 43—Relative to military mobility.

[Filed with Secretary of State May 20, 1985.]

WHEREAS, The ability to rapidly and efficiently airlift military personnel and equipment is vitally necessary to enable the United States to protect its global interests and to respond in crisis situations through rapid deployment; and

WHEREAS, Presently, the nation's airlift forces are deficient both in numbers and in technology, as defined in recent studies, including a congressionally mandated mobility study; and

WHEREAS, The Joint Chiefs of Staff support the requirement for an airlift aircraft capable of intratheater delivery of all types of cargo, including outsize equipment, to austere airfields; low altitude airdrop of large size equipment; airlift of various key, modernized equipment; and intertheater performance with the capability of transition to an intratheater role for the onward movement of units, equipment, and supplies; and

WHEREAS, The United States Air Force C-17 airlift aircraft is specifically designed to meet the requirements of the United States defense strategy; and

WHEREAS, The validation report for the C-17 airlifter, which has been endorsed by the Secretary of Defense, the Joint Chiefs of Staff, and the armed services concerned, describes the ability of the C-17 to increase both intertheater and intratheater airlift capability, thereby improving the total airlift system, and describes the design characteristics and performance capabilities incorporated within the C-17, thereby making the C-17 the optimal solution to overall airlift requirements and long-range objectives; and

WHEREAS, The development and full-scale production of the C-17 airlifter will provide significant economic development and employment opportunities to the State of California; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the California Legislature respectfully memorializes the President and Congress of the United States to support and enact funding for the C-17 airlifter program of development and full-scale production leading to early delivery of these aircraft to the United States Air Force; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 39

Assembly Concurrent Resolution No. 6—Relative to day care for children of State Capitol employees.

[Filed with Secretary of State May 21, 1985.]

WHEREAS, The need for child care is increasing while the availability of traditional, informal child care arrangements is dwindling; and

WHEREAS, Finding child care programs with openings for children is a major problem for working parents; and

WHEREAS, The employees within the State Capitol have special needs with regard to day care because of the schedules of the Legislature and the other governmental agencies in the building, and often the hours of the Capitol staff do not match the hours offered by private child care centers, now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Joint Rules Committee direct its staff, or contract with other personnel to conduct a study including all of the following:

(1) A survey of Capitol employees interested in a child care center in or near the State Capitol for the use of those employees and their families.

(2) Recommendations of sites in or near the Capitol that may be used for a child care center for Capitol employees, and recommendations of viable methods for establishing such a center.

(3) A comprehensive plan to provide trained staff necessary for the child care center, to specify the hours which the center would be in operation to accomodate the needs of Capitol employees, and to address other relevant issues.

(4) Data on the cost of providing services for the child care center.

(5) Information regarding the possibility of shared costs between the Joint Rules Committee and the parents utilizing the child care center.

(6) A detailed description of existing on-site state child care centers; and be it further

Resolved, That the Joint Rules Committee shall appoint a task force of 10 legislative employees concerned with child care, by choosing five out of seven persons recommended by the Senate Rules Committee and five out of seven persons recommended by the Speaker of the Assembly, to assist the staff of the committee or the contractor, as the case may be, in completing the study; and be it further

Resolved, That the results of the study be reported to the Legislature by the Joint Rules Committee on or before October 1, 1985.

RESOLUTION CHAPTER 40

Assembly Concurrent Resolution No. 68—Relative to the XV World Games for the Deaf.

[Filed with Secretary of State May 24, 1985]

WHEREAS, From July 10 through July 20, 1985, 2,500 athletes from 45 countries will be in California to compete in the XV World Games for the Deaf; and

WHEREAS, The World Games for the Deaf are sponsored by the Comite International des Sports des Sourdes, an international organization whose structure and scope are based on those of the International Olympic Committee and whose 45 affiliate nations represent every continent on the globe; and

WHEREAS, The XV World Games for the Deaf will mark the second time that the United States has hosted these games and the first time that they have been staged in the western United States; and

WHEREAS, Only in the United States have deaf individuals been allowed the opportunity of administering an event of the scope of the XV World Games for the Deaf; and

WHEREAS, This is only the second time that deaf individuals have staged this international event; and

WHEREAS, The XV World Games for the Deaf will be the largest international athletic competition held anywhere in the world during 1985 and will also be the largest World Games for the Deaf to date; and

WHEREAS, The athletes of the XV World Games for the Deaf will compete in 13 events, which will be staged on the campuses of the University of California at Los Angeles, Pepperdine University, Santa Monica College, and various high schools and at local recreational facilities; and

WHEREAS, Like the 1984 Summer Olympic Games, the XV World Games for the Deaf will be staged with the help of private sector funding and through the efforts of volunteers, as coordinated by the Los Angeles Organizing Committee—XV World Games for the Deaf; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California welcomes and salutes the competitors of the XV World Games for the Deaf; and be it further

Resolved, That the Legislature acknowledges and applauds the important work of the Los Angeles Organizing Committee—XV World Games for the Deaf, individual volunteers, and private sector donors in the staging of these games; and be it further

Resolved, That the Legislature urges Californians to join in the festivities of the XV World Games for the Deaf; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of

this resolution to the Los Angeles Organizing Committee—XV World Games for the Deaf and to the Comite International des Sports des Sourdes.

RESOLUTION CHAPTER 41

Assembly Concurrent Resolution No. 49—Relative to Joint Rule 61.

[Filed with Secretary of State May 30, 1985.]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That Rule 61 of the Temporary Joint Rules of the Senate and Assembly for the 1985–86 Regular Session is amended to read:

Deadlines

61. The following deadlines shall be observed by the Senate and Assembly. After each deadline, the Secretary of the Senate and the Chief Clerk of the Assembly shall not accept committee reports from their respective committees except as otherwise provided in this rule:

(a) Odd-numbered year:

(1) Mar 8	-	Last day for bills to be introduced.
(2) May 3	-	Last day for policy committees to report to fiscal committees fiscal bills introduced in their house.
(3) May 24	-	Last day for policy committees to report to the floor nonfiscal bills introduced in their house.
(4) June 14	-	Last day for policy committees to meet prior to July 1.
(5) June 21	-	Last day for fiscal committees to report to the floor bills introduced in their house.
(6) June 21	-	Last day for fiscal committees to meet and report bills prior to July 1.
(7) June 28	-	Last day for each house to pass bills introduced in their house.
(8) July 1	-	Committee meetings may resume.
(9) July 19	-	Last day for policy committees to report to fiscal committees fiscal bills introduced in the other house.

(10) Aug 23 - Last day for policy committees to meet and report bills.
(11) Aug 30 - Last day for fiscal committees to meet and report fiscal bills.
(12) Sept 13 - Last day for each house to pass bills.

(b) Even-numbered year:
(1) Jan 17 - Last day for policy committees to hear and report to fiscal committees fiscal bills introduced in their house in the odd-numbered year.
(2) Jan 24 - Last day for any committee to hear and report to the floor bills introduced in their house in the odd-numbered year.
(3) Jan 30 - Last day for each house to pass bills introduced in their house in the odd-numbered year.
(4) Feb 21 - Last day for bills to be introduced.
(5) Apr 18 - Last day for policy committees to hear and report to fiscal committees fiscal bills introduced in their house.
(6) May 9 - Last day for policy committees to hear and report to the floor nonfiscal bills introduced in their house.
(7) May 30 - Last day for policy committees to meet and report bills prior to June 16.
(8) June 6 - Last day for fiscal committees to hear and report to the floor bills introduced in their house.
(9) June 6 - Last day for fiscal committees to meet and report bills prior to June 16.
(10) June 13 - Last day for each house to pass bills introduced in their house.
(11) June 16 - Committee meetings may resume.
(12) July 3 - Last day for policy committees to hear and report to fiscal committees fiscal bills introduced in the other house.
(13) Aug 8 - Last day for policy committees to meet and report bills.
(14) Aug 15 - Last day for fiscal committees to

meet and report fiscal bills.

(15) Aug 29 - Last day for each house to pass bills.

(c) If a bill is acted upon in committee before the relevant deadline and the committee votes to report the bill out with amendments that have not at the time of the vote been prepared by the Legislative Counsel, the Secretary of the Senate and the Chief Clerk of the Assembly may subsequently receive a report recommending the bill for passage or for rereferral together with the amendments at any time within two legislative days after the deadline.

(d) Notwithstanding subdivisions (a) and (b), a policy committee may report a bill to a fiscal committee on or before the relevant deadline for reporting nonfiscal bills to the floor, if, after the policy committee deadline for reporting the bill to fiscal committee, the Legislative Counsel's Digest is changed to indicate reference to fiscal committee.

(e) Bills in the house of origin not acted upon during the odd-numbered year as a result of the deadlines imposed in subdivision (a) may be acted upon when the Legislature reconvenes after the interim study joint recess, or at any time the Legislature is recalled from the interim study joint recess.

(f) The deadlines imposed by this rule shall not apply to the rules committees of the respective houses.

(g) The deadlines imposed by this rule shall not apply in instances where a bill is referred to committee under Rule 26.5.

(h) (1) Notwithstanding subdivisions (a) and (b), a policy committee or fiscal committee may meet for the purpose of hearing and reporting a constitutional amendment, or a bill which would go into immediate effect pursuant to subdivision (c) of Section 8 of Article IV of the Constitution of California, at any time other than those periods when no committee may meet for any purpose.

(2) Notwithstanding subdivisions (a) and (b), either house may meet for the purpose of considering and passing a constitutional amendment, or a bill which would go into immediate effect pursuant to subdivision (c) of Section 8 of Article IV of the Constitution of California, at any time during the session.

(i) This rule may be suspended as to any particular bill by approval of the Committee on Rules and two-thirds vote of the membership of the house.

RESOLUTION CHAPTER 42

Assembly Concurrent Resolution No. 63—Relative to Parliamentary Law Month.

[Filed with Secretary of State June 4, 1985.]

WHEREAS, Parliamentary law embodies the democratic principles of justice, obedience to law and order, courtesy, and a regard for the rights of all; and

WHEREAS, Knowledge and practice of parliamentary procedure facilitates efficiency and harmony in organizational meetings; and

WHEREAS, A greater understanding of transacted business is achieved through the use of parliamentary procedure; and

WHEREAS, This year is the 148th anniversary of the birth of General Henry M. Robert, whose Rules of Order is recognized as America's highest authority on parliamentary law for deliberative assemblies; and

WHEREAS, The California State Association of Parliamentarians stresses, educates, and fosters parliamentary procedure in order to promote the spirit of justice and fairness; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California does hereby proclaim May 1985 as Parliamentary Law Month in the State of California; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the California State Association of Parliamentarians.

RESOLUTION CHAPTER 43

Assembly Concurrent Resolution No. 43—Relative to the month of May, Better Hearing and Speech Month.

[Filed with Secretary of State June 10, 1985]

WHEREAS, The attitudes of society are influenced by limited understanding and limited contact with deaf and otherwise hearing-impaired persons; and

WHEREAS, Hearing impairment, though not visible, is always a serious communication handicap, and especially when it occurs in a bilingual era; and

WHEREAS, These attitudinal and communication circumstances accompanying hearing impairment are barriers to human relationships and full participation in community services and activities shared routinely by society in general; and

WHEREAS, Through the efforts of Quota Clubs, these attitudinal and communication barriers are being steadily reduced; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby takes pleasure in joining the President of the United States and the Council for Better Hearing and Speech Month in proclaiming May as Better Hearing and Speech Month; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to Pat Ostrye, Governor of the 25th District of Quota International, Inc., for distribution to appropriate organizations.

RESOLUTION CHAPTER 44

Assembly Joint Resolution No. 18—Relative to naval petroleum reserves.

[Filed with Secretary of State June 11, 1985]

WHEREAS, The Congress of the United States, by statute enacted shortly after the admission of California to the Union, granted to the state the 16th and 36th sections of every township of public land as support for public education, a grant long held to create an obligation of the federal government to the state; and

WHEREAS, The statute also provided that if any of the sections granted the state had been disposed of by sale or inclusion within Indian, military, or other reservation prior to completion of the survey of such lands, so that the granted land would be unavailable for school support, then equivalent lands could be selected in lieu of the granted lands; and

WHEREAS, Approximately 55,232 acres of California school land grant obligations still remain unfulfilled, despite the high priority which the administration has stated that it placed on the final satisfaction of the debts owed by the United States to California and other western states, largely because of problems with respect to two school land sections in Kern County; and

WHEREAS, State ownership of these two granted sections is withheld by the federal government by virtue of presidential action taken to conserve the oil underlying those sections for production in time of national emergency for the benefit of the Navy, which established the oil resources on both public and private lands in the area as Naval Petroleum Reserve No. 1; and

WHEREAS, The conservation proclamation did not eliminate the private ownership of lands within the reserve, which has required the establishment of a unit operation controlled by presidential discretion, but carried on jointly by the federal government and the private owners, to ensure that the oil resources within the reserve would be available for national security purposes; and

WHEREAS, The value of the granted school lands held from California by the proclamation is such that selection of other

available lands as requested has been virtually impossible; and

WHEREAS, The Department of Interior staff suggested a possible alternative: presidential action qualifying the reserve proclamation to permit recognition of the title of the state to the granted lands, provided that such school lands would be held subject to presidential discretion and control as to the rate and availability of oil production, precisely as are the private lands already included within the reserve; with the proportionate share of oil proceeds to go to the state; and

WHEREAS, While the restriction on operation which would be required would diminish the value of the unrestricted ownership originally granted the state under the school land grant, it still would provide a prospect of substantial income for the State Teachers' Retirement Fund, to which the state has dedicated the funds from satisfaction of the outstanding school lands debt of the United States to the State of California; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully requests the President of the United States and the Secretaries of the Navy, Interior, and Energy to take immediate action to modify the executive proclamation reserving the lands included within Naval Petroleum Reserve No. 1 to permit the state to take title to the two school land sections originally granted it, subject to the control of oil operations by the President as required for national security purposes, and requiring state participation in the existing unit operation; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Secretaries of the Navy, Interior, and Energy.

RESOLUTION CHAPTER 45

Senate Joint Resolution No. 29—Relative to school lunch programs.

[Filed with Secretary of State June 11, 1985.]

WHEREAS, The National School Lunch Program is intended to serve the nutritional needs of all children; and

WHEREAS, Good nutrition is essential for growth, development, ability to learn, and the general well-being of children; and

WHEREAS, Numerous studies indicate that students at all economic levels who participate in the National School Lunch Program are better nourished than children who do not participate in the school lunch program; and

WHEREAS, The National School Lunch Program provides a multiple value in that it assists the agricultural economy by helping to fully utilize the nation's agricultural abundance as well as providing food assistance for children; and

WHEREAS, An effort is underway to eliminate millions of students and thousands of schools from the program; and

WHEREAS, The current program provides a basic infrastructure which helps pay the fixed costs of all school food service programs; and

WHEREAS, Without the existing level of funding, many school districts simply could not afford to participate, and when the program closes, all children in this community including the poor are denied their nutritional needs; and

WHEREAS, The administration's budget plan would reduce funding of the program, nearly seven hundred million dollars; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California urges the United States Senate and House of Representatives to provide at least the level of funding provided in current law for school lunch programs in fiscal year 1986; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative in the Congress of the United States.

RESOLUTION CHAPTER 46

Senate Concurrent Resolution No. 37—Relative to apprenticeship education.

[Filed with Secretary of State June 17, 1985]

WHEREAS, Section 3 of Chapter 12 of the Statutes of 1985 declared the intent of the Legislature that any reimbursement received by the California Firefighter Joint Apprenticeship Program under subdivision (b) of Section 8152 of the Education Code in excess of the reimbursement rate provided in subdivision (a) of Section 8152 of the Education Code shall be deemed an interest-free loan, repayable to the General Fund on July 1, 1992; and

WHEREAS, It is the intent of the Legislature that the repayment of these amounts shall be solely the responsibility of the California Firefighter Joint Apprenticeship Program, and that the Chancellor of the California Community Colleges, the Superintendent of Public Instruction, or any high school district, unified school district, regional occupational center or program, adult school, or community college providing classes of related and supplemental instruction for

the California Firefighter Joint Apprenticeship Program shall not be held responsible for the repayment of funds, the provision of assurances for the repayment of funds, or the collection of these funds; and

WHEREAS, It is the intent of the Legislature that the California Firefighter Joint Apprenticeship Program shall repay these funds to the Controller; and

WHEREAS, It is further the intent of the Legislature, pursuant to the requirements of Section 4 of Chapter 12 of the Statutes of 1985, that the Chancellor of the California Community Colleges and the Controller shall rely upon the California Firefighter Joint Apprenticeship Committee for notification of the availability of any federal training funds for purposes of reducing expenditures from the appropriation made by that section; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That this resolution shall declare the intent of the Legislature with respect to the repayment of funds deemed to be an interest-free loan by Section 3 of Chapter 12 of the Statutes of 1985 for purposes of the California Firefighter Joint Apprenticeship Program; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Chancellor of the California Community Colleges, the Superintendent of Public Instruction, the Controller, and the California Firefighter Joint Apprenticeship Committee.

RESOLUTION CHAPTER 47

Assembly Concurrent Resolution No. 8—Relative to the George Allen Roadside Rest.

[Filed with Secretary of State June 18, 1985]

WHEREAS, The Sunnybrooke Roadside Rest is located on State Highway Route 88 between the Cities of Jackson and Ione in the County of Amador; and

WHEREAS, The Sunnybrooke Roadside Rest is located on land donated by Mr. George Allen; and

WHEREAS, Mr. Allen was an early resident of Amador County who contributed both to the ranching and community development and advancement of Amador County and, consequently, California; and

WHEREAS, Mr. Allen's contributions were many, unselfish, and continuous throughout his lifetime; and

WHEREAS, The Sunnybrooke Roadside Rest would appropriately memorialize and reflect the numerous and substantial contributions of Mr. Allen if it were renamed the "George Allen Roadside Rest;" now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Sunnybrooke Roadside Rest on State Highway Route 88 is hereby designated the "George Allen Roadside Rest," and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation.

RESOLUTION CHAPTER 48

Assembly Joint Resolution No. 47—Relative to the sugar industry.

[Filed with Secretary of State June 18, 1985]

WHEREAS, The sugar industry in the United States and, most importantly, in California is vital to the economy and well-being of the nation and the State of California; and

WHEREAS, The beet sugar and cane sugar refining industry in California, with eight sugar beet processing facilities and one sugar refinery, produces approximately 1.5 million tons of refined sugar annually valued at approximately seven hundred fifty million dollars ($750,000,000); and

WHEREAS, The California beet sugar industry is the world's most productive, with approximately 1,000 farmers in 30 counties growing sugar beets on 200,000 acres; and

WHEREAS, The cane sugar refinery in California is the world's largest, producing refined sugar from raw sugar produced in Hawaii from sugar cane grown on 200,000 acres; and

WHEREAS, The beet and cane sugar processing facilities in California employ approximately 5,000 persons with an annual payroll of one hundred thirty million dollars ($130,000,000), in addition to the seventeen million five hundred thousand dollars ($17,500,000) paid annually to those employed in sugar beet production by farmers; and

WHEREAS, As a leading producer of sugar, California has a major stake in maintaining the health of the domestic sugar industry; and

WHEREAS, The continued existence of a healthy sugar industry in California and in the nation is dependent on a continuation of a program beyond the 1985 crop to insulate the industry from highly subsidized production and exports of sugar from major producing and exporting nations of the world; and

WHEREAS, The Congress of the United States is presently considering the 1985 farm program; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California hereby recognize the significant contributions the sugar industry has made within the state and throughout the nation and respectfully memorialize the Senators and Representatives from California in the

Congress of the United States to give their full support to the continuation of a federal program which will maintain the limited, but healthy, sugar industry in California and the nation; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 49

Assembly Joint Resolution No. 8—Relative to the Philippine Scouts.

[Filed with Secretary of State June 18, 1985]

WHEREAS, Prior to World War II when the Philippine Islands were an American territory, a select unit of Filipinos, known as the Philippine Scouts and numbering about 12,000, were organized under the direction of General Douglas MacArthur; and

WHEREAS, The Philippine Scouts were later incorporated into the United States Army and remained an elite troop with a high esprit de corps in which membership was considered an honor by Filipinos and the strictest standards were followed in selection; and

WHEREAS, The United States Armed Forces operating in the Pacific Theater during World War II were provided invaluable assistance in combat by soldiers of the Philippine Scouts, and the scouts played a pivotal role in the valiant defense of the Bataan Peninsula; and

WHEREAS, General MacArthur described the Philippine Scouts as "excellent troops, completely professional, loyal, and devoted" and, during recruitment, the general pledged that "every member of my command shall receive equal pay and allowances based on the United States Army pay scale, regardless of nationality"; and

WHEREAS, The Philippine Scouts were in fact paid much less than their American counterparts, so that at a time when an American private's pay was $50 a month a Philippine Scout of comparable grade received only $18 for the same hardships and dangers; and

WHEREAS, This discrepancy has persisted for over 40 years despite the recommendation of the Secretary of War to the Congress in 1942 that different pay scales constituted unjust discrimination which should be eliminated; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to enact legislation authorizing lump-sum payments to former Philippine Scouts or their survivors representing the difference

between their pay and the pay of American soldiers of comparable grade during World War II and for a corresponding increase in the future pension benefits of surviving former scouts; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 50

Assembly Joint Resolution No. 58—Relative to apricots.

[Filed with Secretary of State June 20, 1985]

WHEREAS, California produces 98 percent of all domestically produced apricots, comprising a $37 million industry; and

WHEREAS, Apricots have extraordinary nutritional content, being loaded with vitamin A and potassium and containing noteworthy amounts of vitamin C; and

WHEREAS, Through the California Apricot Advisory Board, a state marketing order board, California apricot growers finance an ongoing national advertising and promotion program to assist movement of their commodity in the marketplace; and

WHEREAS, Industry leaders estimate that between one-quarter to one-third of the 1985 crop, amounting to 20,000 tons, will be lost due to record high dried apricot imports; and

WHEREAS, The importation of dried apricots in the United States, primarily from Turkey, has resulted over the last five years in a severe loss of markets for domestic apricot producers and processors; and

WHEREAS, Domestic dried apricot utilization accounted for only 20 percent of the total utilized production from the 1984 crop, down from 32 percent of the crop used for drying in 1983; and

WHEREAS, Preliminary estimates from the United States Department of Agriculture indicate a 46 percent increase over the same period one year ago in the number of dried apricot imports; and

WHEREAS, These imports are entering United States markets at prices below our growers' actual cost of production; and

WHEREAS, If the present trend continues, the Turkish dried apricot import situation, which is fueled by the extraordinarily strong United States dollar, presents a terminal problem for a significant number of the 400 California apricot producers; and

WHEREAS, The California Legislature applauds the Secretary of the United States Department of Agriculture's recent decision to purchase 400,000 cases of canned apricots for the National School

Lunch Program; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature hereby recognizes the significant contributions the apricot industry makes within the state; and be it further

Resolved, That the Legislature respectfully memorializes the Secretary of the United States Department of Agriculture to provide written assurance to purchase an additional 500,000 cases of apricot juice for the National School Lunch Program because the long-term survival of our domestic production and the thousands of jobs it supplies hang in the balance; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President of the United States, to each Senator and Representative from California in the Congress of the United States, and to the Secretary of the United States Department of Agriculture.

RESOLUTION CHAPTER 51

Senate Joint Resolution No. 6—Relative to Outer Continental Shelf oil and gas revenues.

[Filed with Secretary of State June 24, 1985.]

WHEREAS, California has over 1,000 miles of coastline, one of the longest and most spectacular coastlines in the nation, and a coastal population of 16 million that is expected to grow to 18.3 million by the year 2000; and

WHEREAS, There is a national interest in the continuation of ocean and coastal resource management programs developed under the federal Coastal Zone Management Act; and

WHEREAS, State coastal management programs provide the primary vehicle for the wise management and protection of this nation's valuable coastal and marine resources; and

WHEREAS, California has had a federally-approved Coastal Management Program under the federal Coastal Zone Management Act since 1977 which provides California with a program for reviewing federal projects, including offshore oil and gas development, to ensure consistency with California's coastal program; and

WHEREAS, The United States Department of Interior is implementing a program along California's coastline to expand and accelerate Outer Continental Shelf oil and gas leasing over 59 million acres which can have significant social, economic, and environmental impacts on the state's coastal local governments; and

WHEREAS, Accelerated development of Outer Continental Shelf mineral resources may benefit the nation through increased energy

supplies, but California and its coastal local governments must plan for and finance public services and facilities necessitated by that development, while protecting and managing their coastal resources; and

WHEREAS, At the same time the federal government is expanding and accelerating Outer Continental Shelf oil and gas leasing, federal funding for state and local coastal programs has been eliminated or reduced; and

WHEREAS, California and its local governments receive compensation for burdens associated with onshore federal oil and gas leases under the Mineral Leasing Act of 1920, but receive no revenues to plan and compensate for burdens associated with federal offshore oil and gas leases; and

WHEREAS, An equitable share of the revenues derived from a nonrenewable offshore natural resource, which belongs to the citizens of the United States, should be reinvested in coastal programs which provide for the sound management of affected renewable coastal resources; and

WHEREAS, The United States House of Representatives and the Senate passed an Outer Continental Shelf revenue-sharing bill during the 98th Congress, and legislation to share a portion of federal revenues generated from Outer Continental Shelf oil and gas leasing with coastal states and local governments has now been introduced in the 99th Congress; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation which would allocate an equitable share of revenues from Outer Continental Shelf oil and gas development along California's coastline to California to support the continued sound management of its coastal resources; and, due to the importance of this revenue to coastal local governments, to earmark an equitable portion of these revenues to affected local governments.

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 52

Senate Joint Resolution No. 7—Relative to the United States Customs Service.

[Filed with Secretary of State June 28, 1985]

WHEREAS, Promotion of international trade with the Pacific Rim nations is essential to the economic well-being of the United States; and

WHEREAS, The uniform regulation of all West Coast ports by the United States Customs Service provides continuity and is essential for the continued growth of international trade in the Pacific Basin; and

WHEREAS, The West Coast ports are increasingly dominant in the United States international water borne trade; and

WHEREAS, Statistics demonstrate that international trade for the West Coast far exceeds trade for the East and Gulf Coasts; and

WHEREAS, In order to ensure the continued movement of goods through West Coast ports, it is vital that the United States Customs Service maintain uniform jurisdiction over all the West Coast ports; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the United States Customs Service to maintain uniform jurisdiction over all West Coast ports and to increase customs inspectors on the West Coast to ensure the continued movement of international trade through West Coast ports; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Commissioner of the United States Customs Service.

RESOLUTION CHAPTER 53

Senate Joint Resolution No. 11—Relative to the American shipbuilding and repair industry.

[Filed with Secretary of State June 28, 1985]

WHEREAS, The United States shipbuilding and repair industry is a vital element in the nation's national defense capability; and

WHEREAS, America's shipbuilding and repair facilities are rapidly diminishing and falling behind those of the rest of the world; and

WHEREAS, Since 1981, approximately 20 shipyards in this country have closed operation, resulting in the loss of 40,000 skilled labor jobs and incalculable hardships for many individuals and communities; and

WHEREAS, Current shipyard employment in California is approximately 14,000, but this is down from 20,000 only four years ago; and

WHEREAS, A soundly established and geographically dispersed

United States maritime industry is essential to an adequate defense mobilization base; and

WHEREAS, Federal, state, and local recognition of the economic and strategic importance of the American maritime industry are long overdue, and decisive measures are urgently needed to revive this vital national asset; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of California respectfully memorializes the President and Congress of the United States to recognize the shipbuilding and repair industry as important to the economic strength and defense of the nation and an economic necessity for the people of California and to do everything possible for the revitalization and strengthening of this important national asset; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 54

Senate Concurrent Resolution No. 35—Relative to the Joint Legislative Budget Committee.

[Filed with Secretary of State June 28, 1985]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That in addition to any money heretofore made available to the Joint Legislative Budget Committee, there is hereby transferred for support of that committee, pursuant to provision 2 of Item 0130-021-001 of the Budget Act of 1985, the sum of two million six hundred sixty-two thousand dollars ($2,662,000) or so much thereof as may be necessary, from the Contingent Fund of the Senate, as provided by provision 4 of Item 0110-001-001 of that act, and two million six hundred sixty-three thousand dollars ($2,663,000) or so much thereof as may be necessary, from the Contingent Fund of the Assembly, as provided by provision 4 of Item 0120-011-001 of that act.

RESOLUTION CHAPTER 55

Assembly Joint Resolution No. 63—Rescinded.

RESOLUTION CHAPTER 56

Senate Joint Resolution No. 32—Relative to importation of pistachios.

[Filed with Secretary of State July 3, 1985.]

WHEREAS, Section 1304 of the Tariff Act of 1930 (19 U.S.C. Sec. 1301 et seq.) requires that imported commodities of foreign origin, or their containers, be legibly and conspicuously marked to show the English name of the country of origin; and

WHEREAS, These commodities are exempt from the country of origin markings where the product undergoes a substantial transformation due to further processing resulting in a new and different article of commerce with a different name, character, or use; and

WHEREAS, In response to a February 11, 1985, United States Customs Service notice in the Federal Register, and after a request for comments on country of origin marking of imported pistachios, the California Pistachio Commission has presented significant and compelling evidence that imported pistachios are not substantially transformed in the United States; and

WHEREAS, The country of origin marking should be required for imported pistachios because the roasting process does not substantially transform the raw product; and

WHEREAS, Unmarked Iranian pistachios have been marketed in this country under such deceptive labels as "Pride of California" and thereby capture 45 percent of the United States market and cost California growers $20 million in earnings; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature respectfully memorializes the Secretary of the Treasury and the Assistant Secretary of the Treasury for Enforcement and Operations to take immediate action to adopt the proposal noticed by the United States Customs Service in the Federal Register on February 11, 1985, as it specifically relates to pistachios; and be it further

Resolved, That the Secretary of the Treasury and the Assistant Secretary of the Treasury for Enforcement and Operations recognize the urgency of this request and the deceptive marketing of imported Iranian pistachios; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President, to the Secretary of the Treasury, to the Assistant Secretary of the Treasury for Enforcement and Operations, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, and to each Senator and Representative from California in the Congress.

RESOLUTION CHAPTER 57

Senate Joint Resolution No. 3—Relative to Turkey.

[Filed with Secretary of State July 5, 1985]

WHEREAS, It has been brought to the attention of the California Legislature through correspondence of the Order of St. Andrew the Apostle, a private nonprofit corporation with offices at the Greek Orthodox Arch Diocese of North and South America, that the civil liberties of Greeks living in Turkey have been repeatedly threatened and denied; and

WHEREAS, The California Legislature is justly proud of its long and unyielding commitment to the pervasive extension of freedom; and

WHEREAS, The military junta headed by General Evren in Ankara has decreed that Turkish citizens of Greek descent cannot buy or sell real estate, thus creating the expectation that their homes and businesses will be confiscated; and

WHEREAS, Turkish officials recently visited the worldwide center of Orthodox Christianity, known as Ecumenical Patriarchate in Constantinople and called Istanbul by Moslems; and

WHEREAS, In this holy place, which corresponds to the Vatican, all sacred items were registered and declared the national property of Turkey; and

WHEREAS, The famous Greek Orthodox School of Theology on the island of Halki, from which renowned religious leaders (including His All Holiness, Ecumenical Patriarch Demetrios I. and His Eminence, Archbishop Iakovos, Greek Orthodox Primate of the Americas) have graduated, is now a modest high school with a Turkish principal; and

WHEREAS, While Turkish law prohibits any repair work to Christian churches, schools, businesses, or homes exceeding two hundred fifty liras (or less than two dollars) without a permit, such permits are systematically denied to Greek Orthodox residents of the country; and

WHEREAS, There are continuous efforts to seize the income-producing properties willed by Greek Orthodox people to the famous hospital in Baluki, Istanbul, which treats all members of the community regardless of religion or nationality; and

WHEREAS, At least 300 Greek Orthodox families were forced to flee Turkey last year because of these and other oppressive conditions; and

WHEREAS, In addition, the ethnically Greek population of Turkey has dwindled from half a million at the turn of the century to fewer than 5,000, and 92 percent of those who remain are age 65 or older; and

WHEREAS, These facts strongly suggest a Turkish policy of retrenchment and, indeed, of active persecution of those of Greek

heritage; and

WHEREAS, It is the intent of the California Legislature to urge that the United States government investigate these charges and, if substantiated, bring to bear upon the Turkish government appropriate economic and political pressure to correct the suppression of civil liberties; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to petition the Turkish government to effect the protection of the civil liberties of Orthodox Christians; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 58

Senate Joint Resolution No. 4—Relative to maximum speed limit.

[Filed with Secretary of State July 8, 1985.]

WHEREAS, While the National Academy of Sciences recommends that the 55 miles per hour speed limit be retained on most highways, some members felt that it would be appropriate to raise the speed limit on selected highways; and

WHEREAS, Data reported by the State of California to the Federal Highway Administration shows that compliance with the 55 miles per hour National Maximum Speed Limit is deteriorating in California; and

WHEREAS, There is a common perception that public support for the 55 miles per hour National Maximum Speed Limit is eroding; and

WHEREAS, Speeds are higher on most rural freeways as compared to urban freeways, while fatal and injury accidents are less frequent on rural freeways than urban freeways; and

WHEREAS, The State of California can be sanctioned by the federal government when 50 percent or more of the traffic is reported as traveling at speeds greater than 55 miles per hour, resulting in the loss of twenty-eight million dollars ($28,000,000) of federal highway funds; and

WHEREAS, The State of California can be sanctioned by the federal government if the state's 55 miles per hour maximum speed law is repealed, and this could result in a substantial loss of federal highway funds; and

WHEREAS, There are three states which have been advised they are subject to federal sanctions; and

WHEREAS, The California Highway Patrol has maintained wide-ranging routine and special enforcement programs in an effort to improve highway safety and avoid federal sanctions and approximately 1,000,000 violators are arrested annually, which is more than in any other state and is approximately twice the state total prior to the enactment of the 55 miles per hour speed limit; and

WHEREAS, The 55 miles per hour National Maximum Speed Limit has become a dominant focus of the California Highway Patrol law enforcement efforts, with as many as two out of every five arrests being for maximum speed violations, and although these efforts would be considered by the United States Department of Transportation during sanction negotiations, greater safety benefits may be possible if law enforcement resources were redeployed to driving under the influence or other violation problems; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California memorializes the Congress of the United States to enact legislation to allow state legislatures to raise the maximum speed limit on selected freeways; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 59

Senate Joint Resolution No. 18—Relative to international trade.

[Filed with Secretary of State July 8, 1985]

WHEREAS, International trade is an integral and vital part of the California economy, accounting for over one million jobs, 17% of our gross state product, and 25% of our agricultural sales; and

WHEREAS, The United States and California have experienced rising and record international trade deficits over the past three years; and

WHEREAS, These deficits have been responsible for lower economic growth, higher unemployment, widespread bankruptcies and foreclosures, and a substantial loss of export sales; and

WHEREAS, California's agricultural industry has been particularly hard hit by successive declines in export sales of 21% in 1982 and another 8% in 1983; and

WHEREAS, These growing trade deficits, unless they are soon reversed, may cause the permanent loss of export markets for California farmers and manufacturers; and

WHEREAS, The rising burden of farm sector debt and loss of export markets threaten an increasing wave of farm foreclosures and bankruptcies; and

WHEREAS, The economic hardships resulting from the massive trade deficits have brought, and will continue to bring, inordinate pressures on government for protectionist measures; and

WHEREAS, Forty years of progress towards freer markets, expanding international trade, and vastly improved standards of living around the world would be jeopardized by increasing protectionism; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President, the Congress, and the Board of Governors of the Federal Reserve System of the United States to provide the strong, prompt, and decisive leadership necessary to reverse the growing U.S. trade deficits; and be it further

Resolved, That the Legislature respectfully memorializes the President, the Congress, and the Board of Governors of the Federal Reserve System of the United States to exercise the monetary and fiscal policies necessary to reduce U.S. interest rates, to discourage foreign exchange market speculation which has contributed to an overvalued U.S. dollar, and to encourage other nations to assist in reducing the current lopsided U.S. trade deficit; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the President and Vice President of the United States, to the Chairman of the Board of Governors of the Federal Reserve System, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 60

Assembly Joint Resolution No. 63—Relative to Ida Nudel.

[Filed with Secretary of State July 10, 1985]

WHEREAS, For 14 years Ida Nudel, a Jewish citizen of the Soviet Union, has tried to gain permission to emigrate to Israel, to join her only living relative, her sister; and

WHEREAS, Ida Nudel has come to be known as the "Guardian Angel" of the Soviet Jewry movement, for her indefatigable efforts on behalf of "prisoners of conscience" and others who have suffered persecution by the Soviet government solely because they desire to celebrate their Jewish heritage and emigrate to Israel; and

WHEREAS, For her efforts she was sentenced to a four-year prison term in Siberia, and since her release has been forced to live in "unofficial exile" far from her home in Moscow; and

WHEREAS, In recent months she has been taken seriously ill, and the prospects for her recovery are not encouraging; and

WHEREAS, Rather than allow her to receive the full medical attention and treatment she needs, the Soviet authorities have instead threatened her with a new trial and prison term; and

WHEREAS, The type of treatment that Ida Nudel has received from the Soviet government is not worthy of such a powerful nation and is in violation of the international human rights accords to which the Soviet Union is a signator; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California urges the government of the Union of Soviet Socialist Republics to allow Ida Nudel to emigrate to Israel where she may be reunited with her sister, her only living relative, who will care for her in the remaining months of her life; and be it further

Resolved, That the Legislature urges the President of the United States and other federal officials to use all appropriate diplomatic channels to attempt to persuade Soviet authorities to allow the emigration of Ida Nudel; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President, Vice President, and Secretary of State, the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Ambassador to the United States from the Union of Soviet Socialist Republics, and to the Consul General of the Union of Soviet Socialist Republics headquartered in San Francisco.

RESOLUTION CHAPTER 61

Senate Joint Resolution No. 15—Relative to coastal zone management.

[Filed with Secretary of State July 10, 1985]

WHEREAS, The federal Coastal Zone Management Act of 1972, as amended, was enacted to encourage the coastal states to establish and carry out effective and enforceable coastal management programs for the purpose of preserving, protecting, beneficially using, and developing coastal resources in a manner that promotes local, state, and national interests; and

WHEREAS, The federal act provides for incentives, including financial assistance through grants to coastal states, and, once a state coastal program has been certified by the Secretary of Commerce as being in conformity with the act, requires all federal agencies conducting or supporting activities which affect the state's coastal zone to carry out those activities in a manner consistent with the approved state coastal program; and

WHEREAS, The people of this state adopted Proposition 20 in 1972, and the California Legislature subsequently enacted the California Coastal Act of 1976, on the understanding that the federal act authorizes states with federally approved coastal management programs to review federal activities which affect the state's coastal zone for consistency with its own coastal program and provides financial assistance to California for the purpose of managing this nation's coastal resources in California; and

WHEREAS, The California Legislature enacted the "McAteer-Petris Act" in 1969 creating the San Francisco Bay Conservation and Development Commission, and the Suisun Marsh Preservation Act of 1977, that formed the basis of the San Francisco Bay segment of California's Coastal Management Program for the purpose of managing this nation's coastal resources in San Francisco Bay; and

WHEREAS, Nearly thirty million dollars ($30,000,000) of the fifty million dollars ($50,000,000) expended to prepare, adopt, and implement California's coastal program, which was approved by the United States Department of Commerce in 1977, has been provided to the state by the federal government under the authority of the federal act; and

WHEREAS, California's coastal program established a unique partnership between state and local governments under which local governments assume much of the state's burden for managing coastal resources after local governments have prepared local coastal programs consistent with the policies of the California Coastal Act of 1976 and local protection programs consistent with the provisions of the Suisun Marsh Preservation Act of 1977 and the Suisun Marsh Protection Plan; and

WHEREAS, The California Coastal Act of 1976 requires that not less than 50 percent of the funds received by the state pursuant to the federal act be used for the preparation, review, approval, certification, or implementation of local coastal programs; and

WHEREAS, The State of California and its local coastal governments have made good progress in completing the local coastal programs required by the California Coastal Act of 1976 and the State of California and Suisun Marsh local governments have completed the local protection program required by the Suisun Marsh Preservation Act of 1977; and

WHEREAS, The California Coastal Commission and the San Francisco Bay Conservation and Development Commission have, in numerous cases, exercised the federal consistency review authority provided pursuant to the federal act, to ensure that federal activities are conducted in a manner which takes into account, and is protective of, state and local government interest and concerns; and

WHEREAS, The authority of the federal government to provide financial assistance to California and the other coastal states will terminate in 1985 unless reauthorized by the President and the Congress; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memoralizes the President and the Congress of the United States to reauthorize the Coastal Zone Management Act of 1972 so that California and other coastal states can continue to carry out their responsibilities to the citizens of the nation in wisely protecting, managing, and developing coastal resources; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 62

Assembly Joint Resolution No. 39—Relative to the National Railroad Passenger Corporation.

[Filed with Secretary of State July 17, 1985]

WHEREAS, Rail transportation is an integral component of our public transportation system and provides a vital service to the urban and rural communities of this country and encourages the steady economic growth and development of those communities within the State of California; and

WHEREAS, The State of California and the urban and rural communities of the state have invested time and money in the maintenance and improvement of rail facilities and rail service through programs in partnership with the federal government; and

WHEREAS, The Director of the United States Office of Management and Budget has proposed to eliminate all federal funding for the National Rail Passenger Corporation (Amtrak) and let the private sector provide any passenger rail service if there are any companies willing to do so; and

WHEREAS, The result of the elimination of all federal support will result in higher fares, a drastic reduction in the level of rail service, decreased access to many urban and rural communities and correspondingly decreased revenues for businesses in those communities and accordingly lower taxes to the state, higher unemployment, and stifled economic growth and development; and

WHEREAS, The President has the power to ensure that any proposals to eliminate federal funding for Amtrak are not implemented or included in the next federal budget; and

WHEREAS, The program known as Amtrak has for several years steadily increased efficiency so that it now meets Congressionally mandated operating levels for ridership and revenue and promises to become increasingly self-supporting in the future; now, therefore,

be it

Resolved by the Assembly and Senate of the State of California, jointly, That the members respectfully memorialize the President to do all of the following:

(a) Study ways to further improve passenger rail service.

(b) Continue support and funding for Amtrak.

(c) Support the Congress of the United States in its appropriations of those funds; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 63

Senate Joint Resolution No. 9—Relative to the Employee Retirement Income Security Act.

[Filed with Secretary of State July 18, 1985]

WHEREAS, The California Legislature has enacted comprehensive laws regulating programs for the delivery of prepaid and reimbursed health care, including health care service plans, nonprofit hospital service plans, and disability insurance; and

WHEREAS, California's laws protect the interest of citizens enrolled in these health care programs by requiring financial solvency of the plans and insurers, adequacy of the care provided to our citizens as patients, freedom of choice in selecting the health care provider desired by the patient, and other elements supporting fiscal responsibility and good patient care; and

WHEREAS, The federal Employee Retirement Income Security Act (ERISA) has preempted state laws in the regulation of health care plans and programs in order to assure uniform employee benefit plans throughout the United States, but this explicit preemption has precluded the states from mandating additional benefits or protections for employees; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to enact legislation amending the Employee Retirement Income Security Act to narrow its preemption provisions to permit the states to enact legislation which will provide benefits in addition to the protections required by ERISA and encourage states to achieve parity between insured and self-insured benefits; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States,

to the Speaker of the House of Representatives, and to each Senator and representative from California in the Congress of the United States.

RESOLUTION CHAPTER 64

Senate Joint Resolution No. 17—Relative to vessel air emissions standards.

[Filed with Secretary of State July 18, 1985]

WHEREAS, The mix of foreign and domestic shipping at ports on the West Coast of the United States is an important aspect of the economic health and vitality of our nation and its respective states; and

WHEREAS, The regulation of vessels and marine affairs which is not achieved by consensus and cooperation among the states and with the federal government causes confusion and conflict to vessel operators and can negatively impact state and federal efforts to increase the use of West Coast ports for foreign trade; and

WHEREAS, Air emission standards imposed by various federal, state, and local entities are a complicated and confusing set of policies which affect domestic and foreign vessels differently; and

WHEREAS, The Clean Air Act is an example of a law which is unclear as to whether the state and local jurisdictions are preempted from imposing vessel air emission standards; and

WHEREAS, Seventy percent of vessel activities on the West Coast and almost 80 percent in California are by foreign flag vessels whose air emissions cannot be successfully regulated by state or local government; and

WHEREAS, The practice has been for the United States to deal internationally with foreign governments regarding agreements concerning maritime issues, such as the safety of life at sea; and

WHEREAS, Uniformity is desirable in vessel air emission standards so that it is not discriminatory against domestic vessels and their operators; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to undertake or to direct the United States Coast Guard to undertake a study on vessel air emission standards which recognizes the importance of uniformity and its effect on foreign trade; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, the Secretary of Transportation, the Speaker of the House of Representatives, and each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 65

Senate Concurrent Resolution No. 20—Relative to the health status of black persons.

[Filed with Secretary of State July 18, 1985.]

WHEREAS, The Legislature finds and declares that a significant disparity in health status exists in California between the majority population and the black population; and

WHEREAS, Black males are more likely to die at a rate which is almost half as much greater than white males; and

WHEREAS, Black females are more likely to die at rates slightly more than half as much greater than white females; and

WHEREAS, Nonwhite males can expect to live five years less, on the average, than white males; and

WHEREAS, The birth rate of black children by black children under the age of 14 is nearly eight times higher than for white children under the age of 14; and

WHEREAS, The death rates for cardiovascular disease are about two times higher for black females than white females and are about 30 percent higher for black males than white males; and

WHEREAS, The perinatal mortality rate for black communities is still twice as high as for whites despite all of the publicity about recent gains the country has made; and

WHEREAS, Blacks can expect to develop diabetes at a rate which is twice that of whites; and

WHEREAS, Blacks do not have the degree of access to primary health care providers that would lead to a diminution in the disparity in health status between the black and majority population; now, therefore be it,

Resolved by the Senate of the State of California, the Assembly thereof concurring, That every effort be made by government entities at every level and by the private sector to resolve the disparity between the black and majority population and improve the health status of California's black population.

RESOLUTION CHAPTER 66

Senate Concurrent Resolution No. 19—Relative to Jiangsu Province of the People's Republic of China.

[Filed with Secretary of State July 19, 1985]

WHEREAS, The United States of America and the People's Republic of China in December 1978 simultaneously issued a joint communique on the establishment of diplomatic relations between the United States of America and the People's Republic of China,

wherein the United States of America and the People's Republic of China agreed to recognize each other and to establish diplomatic relations as of January 1, 1979; and

WHEREAS, The joint communique expresses that the United States will maintain cultural, commercial, and other unofficial relations with the people of Taiwan; and

WHEREAS, The California Legislature recognizes the friendly relations which have mutually existed between the people of California and the people of Taiwan, and therefore in 1983 on behalf of the people of the State of California through Senate Concurrent Resolution No. 40, Resolution Chapter 120, extended to the people of Taiwan an invitation to join California as a sister state and to conduct mutually beneficial social, economic, educational, and cultural programs in order to bring our citizens closer together and to strengthen international understanding and good will; and

WHEREAS, The People's Republic of China has expressed great interest in establishing friendship state relationships with states of the union in the United States of America in order to foster greater friendship and understanding between the peoples of the United States and the People's Republic of China and to facilitate international trade and commerce between the two nations; and

WHEREAS, Fourteen such friendship state relationships have been established between a Chinese province and an American state; and

WHEREAS, Under the guidance of the principles as embodied in the joint communique on the establishment of diplomatic relations between the United States and China, numerous sister city relationships have been established between American and Chinese cities, among which are the sister city pairings of San Francisco-Shanghai, Los Angeles-Guangzhou, Oakland-Dalien, Sacramento-Jinan, and Long Beach-Qingdao; and

WHEREAS, The people of Jiangsu Province of the People's Republic of China are desirous of entering into a friendship state relationship with the State of California in order to promote for mutual benefit the exchange of trade and commerce and the conduct of scientific, technical, agricultural, and educational programs which will enhance the potential for economic activity in California and Jiangsu; and

WHEREAS, The Province of Jiangsu and the State of California share much in common in topography, climate, and industry; and

WHEREAS, Jiangsu Province presents the opportunity for increased trade markets and the export of ideas, technology, products, and equipment from California, enhancement of international cooperation and communication, and social and cultural interchange which would facilitate understanding and goodwill between the citizens of California and Jiangsu Province; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the California Legislature, on behalf of the

people of California, declares Jiangsu Province as a friendship state, extends to the people of Jiangsu Province of the People's Republic of China an invitation to join California as a friendship state, and commits to the establishment of programs which will further the friendship state relationship; and be it further

Resolved, That the appropriate state officials are encouraged to immediately contact the government of Jiangsu in order to negotiate a friendship agreement between Jiangsu and California which furthers mutual understanding and strengthening of friendly relations, enhances international trade and commerce, and facilitates the exchange of culture, education, science and technology; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Governor of Jiangsu Province, the Governor of California, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 67

Senate Concurrent Resolution No. 22—Relative to the Pacific Fisheries Legislative Task Force.

[Filed with Secretary of State July 19, 1985]

WHEREAS, The fishing, seafood, and aquaculture industries of the Pacific states and provinces of North America play a vital role in the economy of the region; and

WHEREAS, There is an obvious need to develop means for protecting and fostering these industries to maximize yield while protecting the resources for future generations; and

WHEREAS, The establishment of a task force composed of legislators of Pacific states and provinces would serve as a clearinghouse for opinions from all the interests involved in the Pacific fishing, seafood, and aguaculture industries, including reporting to the legislatures of the participating states and provinces and to their delegations to the United States Congress and the Parliament of Canada concerning means of fostering and protecting those industries in the region; now, therefore, be it

Resolved by the Senate of the State of Califonia, the Assembly thereof concurring, That the Senate Committee on Rules and the Speaker of the Assembly shall appoint two Senators and two Assembly Members, respectively, to represent the California Legislature on the Pacific Fisheries Legislative Task Force; and be it further

Resolved, That the Senate Committee on Rules and the Assembly Committee on Rules shall, subject to their respective approvals, make funds available, in equal amounts, from the Senate Contingent

Fund and the Assembly Contingent Fund, respectively, for the payment of the California share of expenses for the task force; and be it further

Resolved, That each state share the cost of the task force based on the formula contained in Article X of the Pacific Marine Fisheries Compact as set forth in Section 14001 of the California Fish and Game Code; and be it further

Resolved, That the California Legislature requests the task force, the Pacific Marine Fisheries Commission, the Pacific Fishery Management Council, and the West Coast Fisheries Development Foundation to meet in conjunction with one another when practicable in order to bring state executive and legislative fisheries leaders and industry and public representatives together to cooperate in common actions and strategies, to resolve interstate disputes, to share information, to allow legislators from each state to oversee those agencies, and to reduce travel and meeting expenses; and be it further

Resovled, That the California Legislature invites the task force to locate its headquarters in Sacramento; and be it further

Resolved, That, if the task force locates its headquarters in Sacramento, the Senate Office of Research shall offer to provide the task force with minimal staff support to the extent funds are available and it is consistent with the office's other functions; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the presiding officers of the legislative bodies of British Columbia, Hawaii, Idaho, Oregon, and Washington, to the executive directors of the Pacific Marine Fisheries Commission, the Pacific Fishery Management Council, and the West Coast Fisheries Development Foundation, and to the California Director of Fish and Game.

RESOLUTION CHAPTER 68

Senate Joint Resolution No. 19—Relative to refugees from El Salvador.

[Filed with Secretary of State July 19, 1985]

WHEREAS, El Salvador, a small, densely populated country, has close to five million people in an area the size of Massachusetts; and

WHEREAS, For decades, the country was run by and for the plantation owners, a small group of people of European descent traditionally referred to as the "Fourteen Families"; and

WHEREAS, Popular unrest broke out during the army's massacre of between 10,000 and 30,000 Salvadoran citizens; and

WHEREAS, The period between 1945 and 1979 was characterized by military rule, widespread corruption, fraudulent elections, and

military repression of all political opposition; and

WHEREAS, There occur continual instances of torture, mutilation, disappearances, and the individual and mass extrajudicial execution of men, women, and children from all sectors of Salvadoran society, perpetrated by extremist factions on all sides within and beyond the government; and

WHEREAS, There has been a massive increase in the number of both internal and external refugees and displaced persons; and

WHEREAS, During the last five years, as a result of the civil war, civilians have been killed in numbers totaling over 40,000, a figure constituting approximately one percent of the population and comparable to 1,750,000 civilian deaths in a country the size of the United States; and

WHEREAS, The United States has an honorable tradition of accepting refugees from abroad who have suffered political repression during a period of civil conflict as demonstrated by the fact that the United States has granted extended voluntary departure status 15 times in the past 24 years, and the status currently is granted to Poles, Ethiopians, Afghans, and Ugandans; and

WHEREAS, Thousands of refugees have fled El Salvador for fear of being harmed by the repression and hostilities that continue daily in the context of an internal civil strife; and

WHEREAS, The United States, to date, has not fully accepted responsibility for its humanitarian obligation toward Salvadoran refugees, refusing to grant them political asylum or even extended voluntary departure status, and has forcibly repatriated over 35,000 people to El Salvador; and

WHEREAS, Innocent men, women, and children are presently without a country and live with the realization that their return to El Salvador would once again place their lives in jeopardy in a country ravaged by an ongoing catastrophic civil conflict; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to recognize that the refugees from El Salvador are "political refugees" and to grant them asylum or extended voluntary departure status, and to enact, as a temporary measure, the Moakley-DeConcini Bill; and be it further

Resolved, That the Legislature emphasizes that the endorsement of these actions by the Congress of the United States is based upon a humanitarian concern for the refugees of El Salvador, and in no way constitutes support or opposition to any faction currently involved in conflict within that nation; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 69

Senate Joint Resolution No. 34—Relative to the United Airlines-Pan American World Airways agreement.

[Filed with Secretary of State July 19, 1985.]

WHEREAS, United Airlines, the largest airline serving California and the employer of some 15,000 persons in the state, and Pan American World Airways have entered into an agreement whereby United Airlines will purchase Pan American's pacific division; and

WHEREAS, The traveling public and the shipping public will benefit from direct, single-plane, and on-line connecting service from United Airlines among all 50 states, including 15 cities served in California, and the Far East; and

WHEREAS, The acquisition furthers United States aviation policy by ensuring a strong United States flag presence in the Far East, thereby benefiting and expanding trade and commerce between California and the lucrative Far East marketplace; and

WHEREAS, The acquisition will benefit both Pan American World Airways and United Airlines, will protect the employees of Pan American, including those employees in California who will be offered employment opportunities with United Airlines, and will expand the United Airlines workforce as additional feeder and international flights are added in California; and

WHEREAS, The United Airlines-Pan American World Airways agreement is subject to the approval of the United States Department of Transportation and the President of the United States and delay in granting that approval will adversely affect travelers, shippers, employees, and travel agents; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California urges the United States Secretary of Transportation Elizabeth H. Dole to expedite the application for approval of the United Airlines-Pan American World Airways agreement in order to preserve the competitive position of the United States in the Far East and to ensure a smooth transition, to reduce uncertainty for travelers, and to strengthen the economic and trade opportunities for the United States and, in particular, the State of California on the Pacific Rim, and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President of the United States, to the United States Secretary of Transportation, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 70

Assembly Concurrent Resolution No. 17—Relative to taxation.

[Filed with Secretary of State July 23, 1985]

WHEREAS, The amount of potential revenues lost through tax exemptions, deductions, various exclusions, deferrals, credits, and loopholes has increased substantially over the past 10 years; and

WHEREAS, The Legislature must carefully scrutinize these tax exceptions as carefully as it examines budget expenditures; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislative Analyst is directed to analyze tax exceptions, which term refers to the various tax exclusions, exemptions, preferential tax rates, credits, and deferrals which reduce the amount of revenue collected from the state's basic tax structure, as follows:

(a) The Legislative Analyst shall establish a process by which all tax exceptions are reviewed according to the following guidelines:

(1) A fiscal and economic analysis which takes into account the original social and economic purpose of the tax exception. If a specific amount of revenue involved with a tax exception cannot be identified, the Legislative Analyst shall provide a range of the revenues involved.

(2) Discussion and examination of the minimal level necessary for the tax exception to achieve the state's objective.

(3) Which income groups are benefited by the tax exception, the distribution of benefits among different income groups, and the effect of the exception on the overall distribution of the tax burden.

(4) To what extent federal and state tax exceptions overlap.

If the information requested in the criteria is not available, then the analyst shall state why the information is missing and what is necessary to make it available.

The Legislative Analyst shall report to the Legislature on the process established to review tax exceptions by December 31, 1986, in order that the Legislature may approve or disapprove the process established.

(b) The Legislative Analyst shall prepare a report which provides a thorough analysis of tax exceptions. The analyst shall review and analyze the tax exception report prepared by the Department of Finance, and shall request assistance from the Franchise Tax Board and the State Board of Equalization in order to make the list as comprehensive as possible. In its analysis, the analyst shall include those tax exceptions which may be significant but difficult to estimate in total dollar amounts.

The report shall examine tax exceptions in accordance with the process established in accordance with subdivision (a) of this measure. After an initial review of all of those tax exceptions, the

Legislative Analyst shall identify those tax exceptions which can be shown to:

(1) Particularly provide windfall benefits to individuals or groups whose behavior is unaffected by the tax incentive.

(2) Work contrary to the objectives of other state programs or other tax exceptions.

(3) Are no longer consistent with the original goals and objectives for which they were intended.

(4) Have little or no clear economic or social justification.

(5) Benefit primarily only a clearly identifiable single economic entity or very small special interest group.

The Legislative Analyst shall estimate the rate of growth of the total amount of tax exceptions over the previous year, and shall identify those tax exceptions which are growing at rates which are in excess of the rate of growth in the general fund budget.

The report on tax exceptions shall be presented to the Legislature no later than December 31 of every even-numbered year. The analyst shall present this material to the fiscal committee of each house, and to the Revenue and Taxation Committee of each house.

(c) The Revenue and Taxation Committee of each house shall review the report submitted by the Legislative Analyst and may select a group of tax exceptions for special review. The committees shall utilize the office of the Legislative Analyst and the staff of appropriate fiscal agencies in conducting their review. On the basis of this review, each Revenue and Taxation Committee shall identify those tax exceptions which it may recommend for deletion or modification, and shall report its recommendations, if any, to the fiscal committee of each house for consideration during the budget process. The resulting bill shall be referred to as the "Tax Exception Budget Revision Bill" for the session, and shall be reviewed for passage, amendment, or modification by the fiscal committees of both houses in conjunction with the budget process.

(d) Tax exception reports required to be produced by the Legislative Analyst shall be produced on dates consistent with the work load in the analyst's office and the needs of the Legislature for this information. Any tax exception report required to be produced by the analyst may be included as part of the tax exception report required pursuant to this measure; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Legislative Analyst.

RESOLUTION CHAPTER 71

Assembly Joint Resolution No. 23—Relative to federal estate tax treatment of agricultural land.

[Filed with Secretary of State July 23, 1985]

WHEREAS, In addition to producing approximately 10 percent of the nation's cash farm receipts, California leads the nation in the production of over 200 different commercially grown crops; and

WHEREAS, The Legislature of the State of California recognized the significance of California's agricultural production on a state and national level when it enacted the California Land Conservation Act of 1965, hereafter called the Williamson Act, to promote the preservation of valuable agricultural land through discouraging premature urbanization, while protecting persons owning agricultural lands near urban areas from being forced to pay real property taxes based on the greater value of their land for commercial or urban residential use; and

WHEREAS, The Williamson Act has proven to be a valuable tool for conserving agricultural land, with 49 of the state's 58 counties participating in it, and with more than 15 million acres, or the equivalent of 50 percent, of the state's farm and grazing land currently under Williamson Act contract; and

WHEREAS, Heirs to farm and ranch property in California find themselves subject to federal estate taxes based on "fair market value" for urban development purposes rather than agricultural purposes, which frequently places pressure on the heirs to sell all or part of the property to development interests in order to pay the taxes; and

WHEREAS, The provisions of a Williamson Act contract constitute an "enforceable restriction" that runs with the land, placing the buyer of the property under the same restrictions as to use, thereby limiting the immediate use of the land for purposes other than agriculture and diminishing the value of the land; and

WHEREAS, The Congress of the United States has recognized the adverse effect of estate taxes on the ability of farmers and ranchers to bequeath their farm and ranch properties to their heirs; and

WHEREAS, The provisions of Section 2032A of the Internal Revenue Code allow for an appraisal system for those properties based on a capitalization of income formula; and

WHEREAS, Section 2032A of the Internal Revenue Code limits the reduction of the taxable value of an estate having farm and ranch properties to a maximum amount of $750,000; and

WHEREAS, Farm and ranch properties in many states, including California, are located in areas subject to high development pressure, resulting in excessively high "fair market values," which in turn has the effect of greatly diminishing the intended benefit of the $750,000 reduction allowed by Section 2032A; now, therefore, be it

Resolved by the Assembly and Senate, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to recognize the "enforceable restrictions" placed on agricultural land under the Williamson Act as a valid consideration in establishing "fair market value" without any

limitation and to enact amendments to the Internal Revenue Code to that effect in order to ensure that farm and ranch properties located in areas subject to excessive development pressures may be continued in operation; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 72

Assembly Concurrent Resolution No. 28—Relative to health care costs.

[Filed with Secretary of State July 23, 1985]

WHEREAS, The cost of health care has increased greatly during the past several years; and

WHEREAS, The increased burden of health care costs threatens governmental health care programs; and

WHEREAS, The manner in which hospital services and resources are utilized may have a significant impact on the cost of health care; and

WHEREAS, The utilization of hospital resources should be examined and studied in all aspects, in order to find possible means to reduce health care costs; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature conduct a study regarding hospital costs, which incorporates all types of hospitals and makes comparisons based on the similarity of the hospitals; and be it further

Resolved, That the study consider all of the following:

(a) The share of hospital costs to overall health care costs.

(b) The manner in which decisions to utilize hospital resources are made.

(c) The identification of persons who determine hospital utilization, including admission and discharge, methods of treatment, tests, and diagnostic procedures.

(d) The reasons for decisions.

(e) The identification of practitioners, other than physicians and surgeons, making hospital utilization decisions.

(f) The controls over hospital resource utilization, independent of the ordering practitioner.

(g) Other providers involved in making hospitalization decisions; and be it further

Resolved, That the study be completed on or before July 31, 1986.

RESOLUTION CHAPTER 73

Senate Concurrent Resolution No. 41—Relative to commending recent firefighting efforts in California.

[Filed with Secretary of State July 24, 1985.]

WHEREAS, Since June 27, 1985, California has been subjected to the worst series of forest fires in recent history; and

WHEREAS, In the past three weeks, there have been over thirty major fires in California, turning to ash upwards of 375,000 acres of timberland, killing three people, destroying 215 homes, and causing over $60 million in property losses, as well as untold misery and personal sadness; and

WHEREAS, Over 10,000 men and women throughout the state--from teenagers to retirees, from small municipal fire departments to the State Department of Forestry, the U.S. Forest service, and dozens of official and ad hoc agencies and organizations, from professional firefighters to volunteer ham radio operators--were involved in the effort to put out the fires; and

WHEREAS, These individuals have put in incredibly long hours, have shown exceptional courage on the fire lines and, above all, have served us all with the highest degree of proficiency and competence imaginable; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature of the State of California commends the many individual persons who heroically and tirelessly worked together fighting fires in our state this summer for their bravery, their skill, and their long hours of service to the public; and be it further

Resolved, That the sincerest appreciation of the Legislature be conveyed also to the countless public agencies, private organizations, and news media which, with utmost efficiency and professionalism, guided the efforts and assisted the firefighters in their Herculean tasks; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Director of the State Department of Forestry.

RESOLUTION CHAPTER 74

Assembly Concurrent Resolution No. 3—Relative to disabled persons.

[Filed with Secretary of State July 25, 1985]

WHEREAS, The Legislature recognizes that the composition of California society is becoming increasingly inclusive and heterogeneous; and

WHEREAS, Every Californian, including those who are disabled, has the right to be fully recognized and included in the operation of our state and society and culture; and

WHEREAS, It is the intent of the Legislature that all persons, regardless of their previous educational background, should have the opportunity to proceed as far as their abilities allow them in the completion of high-quality programs at the elementary, secondary, postsecondary, and graduate education levels; and

WHEREAS, The Legislature recognizes that disabled persons have historically been underrepresented at colleges and universities and consequently have been unprepared to fill highly skilled jobs to meet the challenges of California's future economic and technological growth; and

WHEREAS, The Legislature recognizes that equal educational opportunities for disabled persons will help enhance the education of all students and better prepare everyone for life together in a heterogeneous society; and

WHEREAS, The Legislature recognizes that equal educational opportunities for all persons is a shared responsibility of educational institutions at all levels, requiring both the cooperative efforts of these institutions and comprehensive coordinating efforts of all existing school and campus resources; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature hereby declares its particular concern regarding persons with disabilities and their historical underrepresentation in California postsecondary education; and be it further

Resolved, That the state's goals are as follows:

(a) That the nondisabled-disabled composition of secondary school graduates eligible for admission to public four-year colleges, universities, and community colleges be similar to the nondisabled-disabled composition of secondary school graduates generally.

(b) That the nondisabled-disabled composition of students completing vocational technical programs or transferring from community colleges into four-year institutions be similar to the nondisabled-disabled composition of students entering community colleges.

(c) That the nondisabled-disabled composition of baccalaureate degree recipients from California colleges and universities be similar to the nondisabled-disabled composition of secondary school graduates who are eligible for admission to a four-year educational institution; and be it further

Resolved, That the California Postsecondary Education Commission shall convene a committee composed of representatives from the University of California, the California State University, the Board of Governors of the California Community Colleges, the Association of Independent Colleges and Universities, and the State Department of Education, with the cooperation of other appropriate

state agencies, for the purpose of developing and adopting a plan to achieve these goals and to serve all disabled students who are able to profit from instruction and make reasonable academic progress. These representatives shall provide ample opportunity for all interested parties to present information and their opinions on the committee's plan; and be it further

Resolved, That this committee's plan and its recommendations for action contain the following elements, with respect to disabled persons who are able to profit from instruction and make reasonable academic progress:

(1) Ways of improving the academic preparation of disabled students in secondary schools, if underpreparation is a result of their disability. The State Department of Education shall present data on this issue.

(2) Priorities for action to achieve the state's goals, reasonable timelines to achieve the goals based on specific information from each segment about the extent of underrepresentation, the institution responsible therefor, and a long-term funding approach for programs serving postsecondary students which will reflect the actual costs of providing certain services and instruction which meet general criteria related to serving the particular needs of students with disabilities in each segment.

(3) Specific recommendations for shared responsibility and cooperative, coordinated efforts by all secondary, postsecondary, and postbaccalaureate institutions.

(4) Description of comprehensive institutional efforts for coordinating existing school, campus resources, general academic programs, and general student services, to meet the educational needs of disabled students, and if necessary, recommendations to strengthen, expand or reorganize these efforts.

(5) A mechanism to evaluate annually the progress by each segment in achieving the goals identified above, and provision for the transmittal of this evaluation to the Legislature.

(6) A means of collecting data from secondary schools, community colleges, and other sources in order to project the numbers of students with specific kinds of disabilities who are eligible for admission to colleges and universities in order to aid planning appropriate services for these students; and be it further

Resolved, That an assessment of the implementation of the committee's plan be systematically and formally reviewed on a triennial basis. This review will be conducted by a committee headed by the California Postsecondary Education Commission and composed of members representing the Department of Education, the California Community Colleges, California State University, and the University of California; and be it further

Resolved, That this plan be submitted to the Legislature on or before December 31, 1986; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Regents of the University of California, the

Trustees of the California State University, the Board of Governors of the California Community Colleges, the Association of Independent Colleges and Universities, the State Board of Education, the Superintendent of Public Instruction, and the Director of the California Postsecondary Education Commission.

RESOLUTION CHAPTER 75

Assembly Concurrent Resolution No. 12—Relative to the scouting movement.

[Filed with Secretary of State July 25, 1985]

WHEREAS, The year 1985 marks the anniversary of the founding of the scouting movement, which began 75 years ago when Lord and Lady Baden-Powell initiated the Boy Scouts and Girl Guides in England; and

WHEREAS, On February 8, 1985, the Boy Scouts of America will observe their 75th anniversary; and

WHEREAS, 73 years ago this March 12th, Juliette Gordon Lowe founded the Girl Scouts of America (now known as the Girl Scouts of the U.S.A.), and on March 12, 1985, the Girl Scouts of the U.S.A. will observe their 73rd anniversary; and

WHEREAS, Scouting teaches leadership skills, good citizenship, duty to God and country, and other principles that promote well-being, prosperity, and general good within our society; and

WHEREAS, Scouting has touched millions of our people and has been a significant influence which has led to success in the lives of many Californians who have risen to academic, professional, social, and political prominence; and

WHEREAS, Among the state legislators who were boy scouts in their youth, Assembly Members William P. Baker and Tom Hannigan and Senators John Garamendi and Walter Stiern each achieved the rank of Eagle Scout; four others rose to the rank of Life Scout; Assembly Member Baker represented the United States of America in England during Scouting's Fiftieth Anniversary worldwide celebration; Senator Ruben S. Ayala received the "1985 Distinguished Citizen of the Inland Empire" award; Senator Rose Ann Vuich received the Distinguished Citizen Award from the Mount Whitney Area Council of Boy Scouts; Senator Stiern's father was Scoutmaster of the first Boy Scout troop of San Diego in 1911; and several legislators are currently active in scouting; and

WHEREAS, Senators Marian Bergeson and Diane Watson, and Assemblywomen Doris Allen and Gwen Moore attained prominent ranking as girl scouts; Assemblywoman Maxine Waters and Assemblyman Larry Stirling each received the "Legislator of the Year" award from the Girl Scout Councils of California; and our

State's First Lady, Gloria Deukmejian, is the Honorary Chair of the Girl Scout Council of California; and

WHEREAS, The scouting movement has been of much benefit to the people of our nation and of this state; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the members recognize February 8 as the 75th anniversary of the Boy Scouts of America and March 12 as the 73rd anniversary of the Girl Scouts of the U.S.A., and encourage the people of this State to participate in activities and celebrations appropriate for these occasions; and be it further

Resolved, That the Chief Clerk of the Assembly transmit suitably prepared copies of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 76

Assembly Concurrent Resolution No. 50—Relative to merit awards.

[Filed with Secretary of State July 25, 1985]

WHEREAS, Section 19823 of the Government Code provides that awards may be made to state employees in excess of three thousand dollars ($3,000) when the awards are approved by concurrent resolution of the Legislature; and

WHEREAS, An award of three thousand dollars ($3,000), divided equally, has already been made to Larry E. Brandon and Philip A. Treas, Department of Consumer Affairs, for a suggestion which resulted in annual savings of four hundred six thousand two hundred three dollars ($406,203) by recommending use of subdivision (b) of Section 485 of the Business and Professions Code as the basis for denial of those applications for contractor's license which contained undocumented experience or falsified information instead of referring those applications to the Attorney General for formal legal action; and

WHEREAS, An award of three thousand dollars ($3,000) has already been made to Sharon A. Hausmann, Department of Consumer Affairs, for a suggestion which resulted in increased revenue of one hundred fifteen thousand four hundred fifty-three dollars ($115,453) by recommending that a fee be charged for all reexaminations when the applicant (examinee) failed to appear for a previously scheduled test; and

WHEREAS, An award of three thousand dollars ($3,000) has already been made to C. J. Howard, Department of Developmental Services, Porterville State Hospital, for a suggestion which resulted in annual savings of one hundred sixty-five thousand two hundred twenty-three dollars ($165,223) by recommending that #6 fuel oil

instead of natural gas be burned in the boilers at Porterville State Hospital; and

WHEREAS, An award of three thousand dollars ($3,000) has already been made to Gary E. Meade, Employment Development Department, for a suggestion which resulted in increased revenue of two million one hundred ninety-one thousand ninety-three dollars ($2,191,093) by recommending that deposits of monthly DE 3M tax remittances be accelerated; and

WHEREAS, An award of three thousand dollars ($3,000) has already been made to Robert K. Loo, Department of Insurance, for a suggestion which resulted in annual increased revenue of one million one hundred two thousand eight hundred thirteen dollars ($1,102,813) by eliminating payment of interest on refunds of overpayment of taxes, relating to insurance, if the overpayment will be refunded within 90 days from the due date of the tax. Senate Bill 1326, effective June 30, 1982, provided the necessary change in law to permit implementation of this proposal; and

WHEREAS, An award of three thousand dollars ($3,000) has already been made to James I. McGee, Department of Motor Vehicles, for a suggestion which resulted in annual savings of seventy-five thousand nine hundred twenty-six dollars ($75,926) by recommending that the department purchase vinyl binders instead of canvas binders; and

WHEREAS, An award of three thousand dollars ($3,000) has already been made to Robert Cullen, Department of Transportation, for a suggestion which resulted in one-time savings of one hundred eleven thousand seven hundred thirteen dollars ($111,713) by recommending that a service agreement with Tetra Tech Services, Inc., for maintenance on equipment installed at state toll bridges, be terminated, with maintenance to be performed by Caltrans employees or, when necessary, calling in a contractor on an unscheduled basis; and

WHEREAS, An award of three thousand dollars ($3,000), divided equally, has already been made to Robert B. Richardson, James E. Erickson, and John Abraham, Department of Transportation, for a suggestion which resulted in one-time savings of ninety-nine thousand two hundred one dollars ($99,201) by recommending that 3/16 inch PVC well-casing pipe be used to line corroded culverts where the invert has deteriorated in order to extend the useful life of the culvert when repairing corrugated steel pipes; and

WHEREAS, An award of three thousand dollars ($3,000) has already been made to Marilyn A. Gooding, California State University, Los Angeles, for a suggestion which resulted in one-time increased revenue of one hundred forty-three thousand eight hundred eighty-seven dollars ($143,887) by recommending a method for collecting fees from nonresident students owed California State University, Los Angeles, for total units attempted; and

WHEREAS, The suggestions of these employees have resulted in

annually recurring and one-time savings and increased revenue amounting to four million four hundred eleven thousand five hundred twelve dollars ($4,411,512); and

WHEREAS, As a result of these savings and increased revenue, it is unnecessary to appropriate additional funds for payment of these awards; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the following awards, which have been authorized by the Department of Personnel Administration, are hereby authorized to the employees named:

Larry E. Brandon, eighteen thousand eight hundred ten dollars ($18,810)

Philip A. Treas, eighteen thousand eight hundred ten dollars ($18,810)

Sharon A. Hausmann, eight thousand five hundred forty-five dollars ($8,545)

C.J. Howard, thirteen thousand five hundred twenty-five dollars ($13,525)

Gary E. Meade, one hundred six thousand five hundred fifty-five dollars ($106,555)

Robert K. Loo, one hundred seven thousand two hundred eighty-one dollars ($107,281)

James I. McGee, four thousand five hundred ninety-three dollars ($4,593)

Robert Cullen, two thousand five hundred eighty-six dollars ($2,586)

Robert B. Richardson, six hundred fifty-four dollars ($654)

James E. Erickson, six hundred fifty-four dollars ($654)

John Abraham, six hundred fifty-four dollars ($654)

Marilyn A. Gooding, four thousand one hundred ninety-four dollars ($4,194); and be it further

Resolved, That the Chief Clerk of the Assembly is directed to transmit a copy of this resolution to the Department of Personnel Administration and to the Controller.

RESOLUTION CHAPTER 77

Assembly Joint Resolution No. 9—Relative to health care.

[Filed with Secretary of State July 25, 1985.]

WHEREAS, There is state and federal jurisdiction over employee welfare plans which provide health benefits pursuant to the Employee Retirement Income Security Act of 1974; and

WHEREAS, There are public health programs administered by state and local governments; and

WHEREAS, The states have created entities which provide health benefits to employees in the public and private sectors; and

WHEREAS, Information is sparse regarding the health care policies of these entities; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to authorize and provide funding of a study, to be conducted by an independent research organization, to analyze health care policy and delivery systems for the purpose of guiding the Congress of the United States and state legislatures in the enactment of health care legislation; and be it further

Resolved, That the study consider all of the following:

(a) The effect of the Employee Retirement Income Security Act's partial preemption of health care benefits.

(b) The effect of the cost shift from the federal government and state governments to health payment premiums by Medicaid, Medicare, veterans' hospitals, health maintenance organizations, and preferred provider organizations and fee for service health plans, and insurance policies.

(c) Causes of inflation of health care costs.

(d) The role of the federal and state governments in the health care area; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 78

Senate Joint Resolution No. 24—Relative to persons of Japanese ancestry interned during World War II.

[Filed with Secretary of State July 26, 1985]

WHEREAS, A grave injustice was done to both United States citizens and resident aliens of Japanese ancestry by the evacuation, relocation, and internment of those persons during World War II; and

WHEREAS, The basic civil liberties and constitutional rights of the civilians of Japanese ancestry who were interned in the United States during World War II were fundamentally violated by that evacuation and internment; and

WHEREAS, The findings of the federal Commission on Wartime Relocation and Internment of Civilians describe the circumstances of the evacuation, relocation, and internment of 110,000 United States citizens and permanent resident aliens of Japanese ancestry; and

WHEREAS, H.R. 442, which would enact the Civil Liberties Act of 1985 and implement the recommendations of the Commission on Wartime Relocation and Internment of Civilians, was introduced on January 3, 1985 in the House of Representatives of the United States; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, Thatthe Legislature of the State of California urges the Congress of the United States to enact those portions of H.R. 442 of the 99th Congress which relate to the redress of the injustice done to United States citizens and resident aliens of Japanese ancestry who were interned in the United States during World War II; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 79

Senate Joint Resolution No. 36—Relative to fire emergencies in California.

[Filed with Secretary of State July 26, 1985]

WHEREAS, Recently, several areas in the State of California have been afflicted with brush and forest fires of disastrous proportions creating enormous losses and severe hardships; and

WHEREAS, The firestorm which began on June 26, 1985, has caused damage to over 375,000 acres in 24 counties through over 1,200 separate fires resulting in the deaths of three persons, injuries to 124 civilians and 346 firefighters, the destruction of 215 homes and damage to 131 homes and five businesses, and the destruction of 71 other structures and vehicles, with a total damage estimate of nearly 65 million dollars; and

WHEREAS, The Governor of California has declared a state of emergency to exist in the County of San Diego on July 1, the City of Los Angeles on July 3, the County of San Luis Obispo on July 8, the Counties of Monterey, Santa Clara, and Santa Cruz on July 9, and the County of Ventura on July 10, 1985, but these emergency situations are of a severity and magnitude that effective response is beyond the capabilities of the state and the local governments affected; and

WHEREAS, The extreme hardships being endured by the persons directly affected by these disasters require immediate federal response and assistance; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the President and Congress are respectfully memorialized to immediately declare that a major disaster exists in

the Counties of Monterey, San Diego, San Luis Obispo, Santa Clara, Santa Cruz, and Ventura and the City of Los Angeles, making available federal assistance to the victims of these fires; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 80

Senate Joint Resolution No. 1—Relative to blood-alcohol limits for airplane pilots.

[Filed with Secretary of State August 29, 1985]

WHEREAS, A study conducted by the National Transportation Safety Board disclosed that one of every 10 pilots killed in aviation accidents in the United States had some alcohol in his or her blood; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California memorializes the Federal Aviation Administration to issue a rule that would set the lowest level at which alcohol is detectable in the blood as the blood-alcohol level at which pilots would be considered intoxicated; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Administrator of the Federal Aviation Administration.

RESOLUTION CHAPTER 81

Senate Joint Resolution No. 12—Relative to a new national veterans' cemetery.

[Filed with Secretary of State August 29, 1985]

WHEREAS, A new national cemetery in California for veterans is urgently needed, and the best site for this facility would be at a site in northern California; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President, Congress, and the Veterans' Administration to establish a new national veterans' cemetery at a site in northern California; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Administrator of Veterans' Affairs.

RESOLUTION CHAPTER 82

Senate Joint Resolution No. 14—Relative to national forest revenue sharing.

[Filed with Secretary of State August 29, 1985]

WHEREAS, States and local governments are burdened by the presence of national forest lands which generate development pressures which, in turn, cause increased demands for transportation, education, police and fire protection, and other public services; and

WHEREAS, Since 1908, Congress has provided counties containing national forests with 25 percent of the funds derived from national forest timber production and user fees for schools and roads as partial compensation for public service burdens and tax immunity associated with national forest lands; and

WHEREAS, Counties currently receive a 25 percent share of gross national forest revenues, with credits provided to timber purchasers for road construction and reforestation deducted only from the federal government's portion of the revenues; and

WHEREAS, In the 1984 federal fiscal year, national forest revenues totaled $900 million nationally, with states receiving $225 million, of which California received $44 million; and

WHEREAS, California contains over 19 million acres of national forests, and many of the state's timber counties depend heavily on national forest revenue sharing funds to provide adequate education and transportation services; and

WHEREAS, The United States Department of Agriculture has proposed legislation to eliminate the long-standing 25 percent national forest revenue sharing program and replace it with a local taxation system which would significantly reduce the amount of national forest revenues received by many counties; and

WHEREAS, The federal Office of Management and Budget has proposed to deduct National Forest Service administrative costs from the states' share of national forest revenues; and

WHEREAS, The Office of Management and Budget has proposed to shift from the state revenue sharing of gross receipts to a net profit sharing system for national forest revenues; and

WHEREAS, The implementation of these legislative and budgetary initiatives by the federal government would impose

significant financial hardship on affected California timber counties and school districts; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States, the Secretary of Agriculture, the Chief of the Forest Service, and the Director of the Office of Management and Budget not to implement legislative or budgetary initiatives which would reduce the national forest revenue sharing funds received by the states; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Secretary of Agriculture, to the Chief of the Forest Service, to the Director of the Office of Management and Budget, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 83

Senate Joint Resolution No. 16—Relative to the National Railroad Passenger Corporation.

[Filed with Secretary of State August 29, 1985]

WHEREAS, The National Railroad Passenger Corporation, known as Amtrak, serves the residents of this state; and

WHEREAS, Our residents' use of Amtrak has increased continuously since 1971; and

WHEREAS, Amtrak directly employs 1,000 residents of this state and indirectly supports the employment of approximately 3,000 residents of this state through the purchase of supplies and equipment from their employers; and

WHEREAS, Amtrak has invested millions of dollars in this state in the form of passenger facilities and equipment; and

WHEREAS, Amtrak has continually improved the quality of its service, its financial position, and the number of passengers carried to the point where it transported 22 million people in 1984 and expects to increase that amount by 2 to 3 percent in 1985; and

WHEREAS, The budget presented to the Congress of the United States by the President would, if enacted, deprive Amtrak of the federal funding required for its continued existence; and

WHEREAS, The elimination of Amtrak would result in serious adverse economic consequences to this state and its residents in terms of loss of investment, loss of income to equipment and supply contractors with the railroad, loss of railroad passenger service, loss of jobs, and a concomitant strain on the Railroad Retirement System by the loss of many contributors to that system; and

WHEREAS, Amtrak must be continued in operation to serve this

state as it has in the past; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California memorializes the Congress of the United States to provide sufficient funding through appropriation of those amounts of money necessary to keep Amtrak in at least as sound a position operationally and financially in the 1985–86 fiscal year as it has been in the 1984–85 fiscal year; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to each Senator and Representative from California in the Congress of the United States and to the United States Secretary of Transportation.

RESOLUTION CHAPTER 84

Assembly Concurrent Resolution No. 25—Relative to the Los Angeles Children's Museum.

[Filed with Secretary of State August 30, 1985]

WHEREAS, The Los Angeles Children's Museum is one of the largest and most important institutions of its kind; and

WHEREAS, The Children's Museum during its busy five-year history has served nearly 1.4 million visitors from throughout California; and

WHEREAS, The Children's Museum serves children from ages 2 to 12, inclusive, from a wide variety of ethnic communities and economic levels; and

WHEREAS, The Children's Museum attracts many families to downtown Los Angeles for the first time; and

WHEREAS, The Children's Museum location, while very accessible to freeway travelers, is not visible from the freeway; and

WHEREAS, The Los Angeles Children's Museum has agreed to pay the cost of purchasing and erecting directional signs on State Highway Route 101 that indicate the direction to the Los Angeles Children's Museum; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Transportation is hereby requested to erect and maintain directional signs at the westbound Alameda Street exit and the eastbound Los Angeles Street exit from State Highway Route 101 in the City of Los Angeles, to indicate the direction to the Los Angeles Children's Museum if the Los Angeles Children's Museum pays the cost of purchasing and erecting the signs; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the California Transportation Commission and the Director of Transportation.

RESOLUTION CHAPTER 85

Assembly Concurrent Resolution No. 48—Relative to the California Water Forum.

[Filed with Secretary of State August 30, 1985.]

WHEREAS, There are significant conflicting needs for the limited water resources of the state, including those regarding fish and wildlife, urban uses, agriculture, water quality, and flood control; and

WHEREAS, The wise conservation, allocation, management, use, and reclamation of the water resources of the state involves the consideration of extremely complex issues, including, but not limited to, the amounts of water needed for the various purposes set forth above, the nature and extent of fish and wildlife, flood control, water quality, and other environmental impacts, water pricing policy, statewide population growth, the coordination of state and federal water projects and policies, and legal and institutional considerations and issues; and

WHEREAS, Attempts over the past several years to develop solutions to these issues and to reconcile underlying concerns have been unsuccessful; and

WHEREAS, It is of critical importance to the well-being of the state to resolve expeditiously these issues as part of a sound, long-term water resources program for the state that is supported by a statewide consensus; and

WHEREAS, There is a significant need for a neutral forum in which these statewide issues can be discussed and analyzed and options evaluated that may provide the basis for such a consensus; and

WHEREAS, The California Water Forum, under the sponsorship of more than 75 private and public sector agencies and organizations, has provided a neutral forum for the discussion of these issues and has convened two conferences in northern and southern California, involving over 200 key representatives of local, state, and federal governmental agencies, business and industry, environmental and wildlife organizations, agriculture, water agencies, urban interests, and the public to address statewide water issues; and

WHEREAS, The California Water Forum has proposed to the Legislature that the forum undertake a further effort to develop a statewide Water Policy Option Scenarios Report in consultation with its sponsors and those participating in the forum which would provide the focus for further discussion and analysis of statewide water issues with a view to provide a basis for developing policies and programs which would enjoy broad support; and

WHEREAS, The Legislature would welcome the preparation by the California Water Forum of that report; now, therefore, be it

Resolved, by the Assembly of the State of California, the Senate thereof concurring, That the Legislature encourages the California

Water Forum to proceed expeditiously with its statewide Water Policy Option Scenarios Report and submit the report to the Legislature prior to October 1, 1986, for consideration and further action by the Legislature; and be it further

Resolved, That the Legislature shall, and the administrative agencies of the state are encouraged to, cooperate with the California Water Forum in the preparation of its report.

RESOLUTION CHAPTER 86

Senate Joint Resolution No. 13—Relative to federal mineral leasing.

[Filed with Secretary of State September 3, 1985]

WHEREAS, States are significantly burdened by the presence of federal lands used for mineral leasing purposes and must respond to federal mineral leasing development activities that generate increased demands for education, roads, police and fire protection, and other public services; and

WHEREAS, Under the federal Mineral Leasing Act of 1920, 50 percent of the sales, bonuses, royalties, and rentals related to the production of minerals on federal leases are payable to the state in which the leases are located in partial compensation for public service burdens and tax immunity associated with federal lands; and

WHEREAS, In 1983, the federal government received over $1 billion in onshore mineral leasing revenues, with the total states' share exceeding $500 million, of which California received about $25 million; and

WHEREAS, Most federal mineral leasing revenues shared with California are used for education purposes, with residual funds used for surface mining reclamation, geothermal activities, and natural resource and wildlife projects; and

WHEREAS, As a result of inefficiencies and omissions in royalties management, California and other states have been receiving far less than the full amount of mineral leasing revenues authorized under federal law; and

WHEREAS, The federal mineral leasing revenue shares of California and other states are also being seriously eroded by the deduction of windfall profits taxes, by the undervaluation of natural gas, and by the withholding of mineral leasing lottery fees; and

WHEREAS, The Office of Management and Budget has proposed to reduce federal land revenues received by states by over $400 million annually by deducting administrative costs of the Department of the Interior from the states' share of mineral leasing revenues and by shifting from the sharing of gross receipts to a net profit sharing system for mineral leasing revenues; and

WHEREAS, The federal government's mineral leasing royalty collection system, when combined with the implementation of budgetary initiatives to lower the states' share of mineral leasing revenues, will significantly reduce the mineral leasing revenues received by California and other states, and will adversely affect education and natural resource and wildlife programs in California; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States, the Secretary of the Interior, the Director of the United States Minerals Management Service, and the Director of the Office of Management and Budget, to revise the federal government's mineral leasing royalty management system to ensure that states receive their full entitlement of revenue sharing funds authorized under federal law and to refrain from implementing budgetary initiatives which would significantly reduce the mineral leasing revenue sharing funds received by states; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, to the Secretary of the Interior, to the Director of the United States Minerals Management Service, to the Director of the Office of Management and Budget, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 87

Senate Concurrent Resolution No. 40—Relative to the Joint Committee for Review of the Master Plan for Higher Education.

[Filed with Secretary of State September 3, 1985]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That notwithstanding the provisions of Resolution Chapter 175 of the Statutes of 1984, the Joint Committee for Review of the Master Plan for Higher Education shall, effective upon the adoption of this measure, consist of 18 members, including nine Members of the Senate and nine Members of the Assembly appointed pursuant to Temporary Joint Rules 36.5 and 36.7. The membership shall be bipartisan and proportionally reflective of the membership of each respective house.

RESOLUTION CHAPTER 88

Senate Concurrent Resolution No. 14—Relative to hazardous substances education.

[Filed with Secretary of State September 11, 1985]

WHEREAS, There is a rapidly increasing public concern over threats to public health and safety from hazardous substances and hazardous waste; and

WHEREAS, The current level of public understanding of the processes involved in identifying and assessing hazards and risks posed by exposure to hazardous substances and hazardous waste is inadequate; and

WHEREAS, There is a need to increase public awareness as to the safe use, storage, and disposal of hazardous substances and hazardous waste so that losses of life and property, injuries, and social disruption will be minimized; and

WHEREAS, State and local programs to implement training programs designed to provide the necessary information, organizational skills, and materials to assist schools, employers, workers, and communities in the development of hazardous substances education are nonexistent or inadequate; and

WHEREAS, The public needs access to general, unbiased information on hazardous substances and hazardous waste in the household, in the workplace, in industrial processes, on potential risks of exposure, and on numerous other specific aspects of hazardous substances management; and

WHEREAS, Major industries in California have contributed unrestricted gifts to the University of California to establish a project to accomplish these goals; and

WHEREAS, The Lawrence Hall of Science of the University of California at Berkeley has established, with the aid of a broad-based advisory board, the Chemical Education for Public Understanding Project, whose goal is to increase public awareness and personal safety regarding the use of hazardous substances; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Regents of the University of California are hereby requested to support the growth of the Chemical Education for Public Understanding Project of the Lawrence Hall of Science by providing funds for the project to match the contributions pledged by industry to allow the Lawrence Hall of Science to further develop the project; and be it further

Resolved, That the Regents of the University of California are requested to establish, as part of the project, an information and training center which offers onsite and offsite public education programs for individuals selected from colleges and universities, county offices, school districts, industry, labor, and the public; and be

it further

Resolved, That the Regents of the University of California are requested to include in this project the development of curriculum materials and educational procedures to motivate the public to increase their personal safety and awareness regarding hazardous substances; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Regents of the University of California.

RESOLUTION CHAPTER 89

Senate Concurrent Resolution No. 46—Relative to school safety.

[Filed with Secretary of State September 11, 1985.]

WHEREAS, Schools make substantial contributions to the future of California and to the development of our nation's young people as knowledgeable, responsible, and productive citizens; and

WHEREAS, Excellence in education is dependent on safe, secure, and peaceful school settings; and

WHEREAS, The California Constitution provides pupils, teachers, and school staff with the inalienable right to learn, teach, and work in safe, secure, and peaceful school settings; and

WHEREAS, It is the duty of all pupils, other citizens, civic, educational, and legal institutions, and law enforcement and other relevant governmental agencies to enhance the learning experiences of young people by promptly helping to improve school attendance, foster fair and effective discipline, promote good citizenship, and diminish school crime, violence, substance abuse, and vandalism; and

WHEREAS, The safety and well-being of many pupils, teachers, and school staff are unnecessarily jeopardized by disruption, crime, violence, substance abuse, and vandalism in our schools; and

WHEREAS, Pupils who do not willingly attend school on a regular basis cannot fully benefit from California's educational system and often disrupt the learning experiences of other pupils; and

WHEREAS, A better public understanding of the problems of school safety and pupil attendance will assist our pupils, other citizens, civic, educational and legal institutions, law enforcement, and other relevant governmental agencies to fulfill this important duty; and

WHEREAS, All pupil and adult governmental leaders, especially education, legal, and law enforcement officials, should eagerly cooperate with the United States Department of Education; the United States Department of Justice; the Cabinet Council on Campus Safety; the National School Safety Center, a partnership of the United States Departments of Justice and Education and

Pepperdine University; Cities in Schools; the California Department of Justice; the State Department of Education; the California Office of Criminal Justice Planning; the California School Boards Association; the Association of California School Administrators; the California Teachers Association; the California Federation of Teachers; the California School Employees Association; the California Association of Supervisors of Child Welfare and Attendance; the California District Attorneys Association; the California Juvenile Peace Officers Association; and the California School Peace Officers Association, and generously help to systematically and energetically focus attention, during the 1985–86 school year, on school safety and student attendance in order to identify, develop, and promote innovative answers to these critical issues; and

WHEREAS, The George Washington Preparatory High School's "Preparation for Excellence; Parent, Guardian and Student Contract" (California); the Boys and Girls High School's "Communications Network and Student Code of Conduct" (New York); the American Senior High School's "Project R.E.A.C.H. and Youth Crime Watch" (Florida); the Louis W. Fox Academic and Technical High School's "Student Code of Conduct" (Texas); the Clackamas High School's Guidelines for Student Behavior and Discipline Review Committee" (Oregon); the Whitney Young Academy Magnet High School's "Student Code of Conduct" (Illinois); the Students Against Driving Drunk "Teenager/Parent/Guardian Contract"; the United States Apple Corps; and other similarly positive resources are among those innovative answers; and

WHEREAS, These observances of "California's Safe Schools Week" and "California's Year of School Safety and Student Attendance" will further alert students, teachers, school staffs, and the public to school safety and student attendance issues and answers, and encourage all Californians to work with the United States Department of Education, the United States Department of Justice, the Cabinet Council on Campus Safety, the National School Safety Center, Pepperdine University, Cities in Schools, the California Department of Justice, the State Department of Education, the California Office of Criminal Justice Planning, the California School Boards Association, the Association of California School Administrators, the California Teachers Association, the California Federation of Teachers, the California School Employees Association, the California Association of Supervisors of Child Welfare and Attendance, the California District Attorneys Association, the California Juvenile Peace Officers Association, the California School Peace Officers Association, and other educational, legal, and law enforcement institutions and leaders to provide all our nation's schools with positive and safe learning climates; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly

thereof concurring, That the Honorable George Deukmejian, Governor of the State of California, is hereby requested to proclaim the week of October 20 through October 26, 1985, as "California's Safe Schools Week" and the 1985–86 school year as "California's Year of School Safety and Student Attendance"; and be it further

Resolved, That the President; the Congress of the United States; the California State Legislature; other federal, state, county, city, and civil officials, agencies, and associations; and the student councils in each of California's public and private schools be encouraged to formally join in observing these events so that all of these leaders, agencies, and associations, and all of California's public and private school pupils, teachers, and school staff can enthusiastically work together to make each of our state's school campuses safe, secure, and peaceful sanctuaries for learning, teaching, and working for everyone; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Governor, and to each school district in this state.

RESOLUTION CHAPTER 90

Senate Constitutional Amendment No. 5—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by adding Section 11 to Article VII thereof, relating to state government.

[Filed with Secretary of State September 17, 1985]

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its 1985-86 Regular Session commencing on the third day of December 1984, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the State be amended as follows:

First—That Section 11 is added to Article VII thereof, to read:

SEC. 11. (a) The Legislators' Retirement System shall not pay any unmodified retirement allowance or its actuarial equivalent to any person who on or after January 1, 1987, entered for the first time any state office for which membership in the Legislators' Retirement System was elective or to any beneficiary or survivor of such a person, which exceeds the higher of (1) the salary receivable by the person currently serving in the office in which the retired person served or (2) the highest salary that was received by the retired person while serving in that office.

(b) The Judges' Retirement System shall not pay any unmodified retirement allowance or its actuarial equivalent to any person who on or after January 1, 1987, entered for the first time any judicial office subject to the Judges' Retirement System or to any beneficiary

or survivor of such a person, which exceeds the higher of (1) the salary receivable by the person currently serving in the judicial office in which the retired person served or (2) the highest salary that was received by the retired person while serving in that judicial office.

(c) The Legislature may define the terms used in this section.

RESOLUTION CHAPTER 91

Senate Concurrent Resolution No. 7—Relative to the Free Speech Movement.

[Filed with Secretary of State September 17, 1985.]

WHEREAS, The First Amendment of the Constitution of the United States guarantees freedom of speech and assembly as an inalienable right; and

WHEREAS, It is the duty of public institutions to preserve and protect the basic human rights guaranteed by the United States Constitution; and

WHEREAS, The expression of diverse points of view is basic to the principle of learning in public institutions of higher education; and

WHEREAS, The Free Speech Movement began at the University of California at Berkeley in October of 1964 as a response by students to the curtailment of their First Amendment rights by the university; and

WHEREAS, The peaceful protest by students, which later received the support of the academic senate, resulted in a lifting of the University of California's ban on the advocating of political activity or soliciting of funds for a nonuniversity cause on campus and charged the chancellor with the responsibility to assure an ongoing opportunity for the expression of a variety of viewpoints; and

WHEREAS, Violence stemming from the protest movement of the 1960's, whether the instigators in any specific case were students or police, should be repudiated in the strongest possible terms; and

WHEREAS, In response to criticisms that originated in the Free Speech Movement, University of California policy now explicitly protects the rights of free expression, speech, assembly, worship, and distribution and sale of noncommercial literature incidental to the exercise of these freedoms on university grounds; and

WHEREAS, University policy now also recognizes the right of student government to address and take positions on public issues as well as the constitutional rights of faculty, students, or staff to participate, either as individuals or as members of groups, in the political process of supporting candidates for public office or any other political activity; and

WHEREAS, The changes brought about by the Free Speech Movement at the University of California have served as a model for

the advancement of First Amendment rights on campuses throughout the nation and have been critical to the debate of contemporary political issues on campuses, to combating apathy, and to furthering the involvement of students in the political process; and

WHEREAS, The Free Speech Movement emerged from the civil rights movement and with it spawned the third world student strike and the anti-war movement, each of which had an important history on campus communities; and

WHEREAS, These movements have resulted in programs and departments such as ethnic studies, women's studies, peace and conflict studies and student initiated seminars which have increased the diversity of learning and assure an ongoing opportunity for the expression of a variety of viewpoints on campuses throughout the state; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature hereby declares that October 1, 1985, and each October 1 thereafter, is hereby designated Free Speech Day; and be it further

Resolved, That copies of this resolution be transmitted by the Secretary of the Senate to the Regents of the University of California, the Mayor of the City of Berkeley, the Graduate Assembly of the University of California at Berkeley, the Associated Students of the University of California at Berkeley, the University of California Student Body Presidents' Council, and the University of California Student Lobby.

RESOLUTION CHAPTER 92

Senate Concurrent Resolution No. 8—Relative to safety in the use of mobile radio telephones.

[Filed with Secretary of State September 17, 1985]

WHEREAS, Cellular radio telephone technology continues to be refined and improved, offering motorists new communication options, and, as cellular franchise territories continue to be designated, the declining costs of owning and operating mobile telephone equipment could dramatically increase the use of telephones in automobiles in the metropolitan areas of this state; and

WHEREAS, Data compiled by the United States Census Bureau show that cities in California have the greatest number of automobiles per square mile in the nation; and

WHEREAS, Inattention by drivers contributes to many automobile accidents each year, often involving personal injuries and fatalities; and

WHEREAS, Data is lacking on the relationship between the use of mobile radio telephones and metropolitan highway vehicle

accidents; and

WHEREAS, It is necessary to determine the safety implications of increasing numbers of mobile radio telephones by drivers in the metropolitan areas of this state; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Commissioner of the California Highway Patrol is requested to study the safety of the widespread and increasing use of mobile radio telephones by drivers of automobiles under metropolitan traffic conditions and to formulate findings and conclusions on these matters, including, but not limited to, information on the comparative safety of hand-held and "hands free" telephone devices when used by drivers under conditions of metropolitan traffic, the best materials and designs for mobile radio telephones to insure driver and passenger safety, the best methods for using these devices, including dialing and answering, to prevent automobile accidents resulting from driver inattention, methods to best ascertain and determine actual relationships between automobile accidents and the use of these devices, and the nature and extent of further studies needed on the proper use of mobile radio telephones; and be it further

Resolved, That the commissioner establish, and that the commissioner or the commissioner's designee chair, a committee composed of representatives of the Office of Traffic Safety, the Department of the California Highway Patrol, the mobile radio telephone and insurance industries, automobile associations, and others deemed appropriate by the commissioner, who shall serve without compensation to review and evaluate the findings and conclusions of the commissioner; and be it further

Resolved, That the commissioner, after consideration of the committee's review and evaluation, prepare and submit a report to the Legislature on the subject of this resolution not later than July 1, 1986; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Commissioner of the California Highway Patrol.

RESOLUTION CHAPTER 93

Senate Joint Resolution No. 10—Relative to substance abuse in professional sports.

[Filed with Secretary of State September 17, 1985]

WHEREAS, The art, flair, culture, and hobbies associated with professional and amateur sports have become a vital part of California's social and economic communities; and

WHEREAS, Sports stars are often looked upon as modern day heroes in the eyes of our nation's children; and

WHEREAS, The image of the athlete has been enhanced in our society through the collection of trading cards, autographs, posters, and other forms of memorabilia; and

WHEREAS, The image of athletes can be tarnished by abuse of drugs or alcohol at all levels of professional and amateur sports; and

WHEREAS, California has a huge financial investment in, and commitment to, its national and international sports images, as the largest sports state in the nation with 16 professional sports teams, and as host to the 1984 Summer Olympics, Major League Baseball's 1984 All-Star Game, and the Super Bowl within the past 12 months; therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, On behalf of the state's professional and amateur sports consumers and sports image, that the Legislature finds that it has an interest in enhancing the positive image of sports and leagues the players represent; and be it further

Resolved, That the Legislature encourages all professional sports leagues, amateur athletic associations, and fans' clubs to work together to combat substance abuse on and off the field; and be it further

Resolved, That the Legislature respectfully requests that the President and the Congress of the United States research the problems and incidence of substance abuse in sports through the establishment of a national sports drug information and rehabilitation network designed to educate both athletes and fans on and off the field, with a special emphasis placed on educating children and amateur athletes about the hazards of drug and alcohol abuse; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Franchise of Americans Needing Sports.

RESOLUTION CHAPTER 94

Senate Concurrent Resolution No. 16—Relative to engineering education.

[Filed with Secretary of State September 17, 1985]

WHEREAS, There are many successful programs that are being conducted to increase the number of minority high school students who enroll in engineering education programs; and

WHEREAS, Few minority students in engineering education complete the engineering requirements in postsecondary education and receive their degrees in engineering; and

WHEREAS, Congress has passed Public Law 98-377 which contains "Title II of the Education For Economic Security Act of 1984," and this legislation appropriates significant funding for the states, including California, to conduct a needs assessment of the challenges faced by underrepresented groups entering and remaining in science and math related education career paths, including the qualification of teachers; and

WHEREAS, Some researchers have estimated that the attrition rate of minority students in engineering education is in excess of 90 percent from some school districts; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the California Postsecondary Education Commission is requested to conduct a study of the attrition rate of students in engineering education, to determine if ethnic minority and women students have a higher attrition rate than all engineering students, and, if so, to determine the causes of this higher attrition rate and develop recommended solutions to increase the retention rate for minority and women students in engineering programs; and be it further

Resolved, That the California State University and the University of California, in cooperation with the California Postsecondary Education Commission, shall identify the types of data necessary to determine the attrition rate for engineering students; and be it further

Resolved, That the California State University and the University of California are requested to collect these data and provide them to the California Postsecondary Education Commission prior to April 1, 1986; and be it further

Resolved, That the California Postsecondary Education Commission assess the impact of the Minority Engineering Program in improving the retention rate of minority students in engineering education and identify those components of the program which have been particularly successful; and be it further

Resolved, That the California Postsecondary Education Commission, in conducting the study, assess the impact of differing levels of academic preparation and secondary school education on academic success by ethnic minority and women students in engineering education; and be it further

Resolved, That the California Postsecondary Education Commission is requested to cooperate with other agencies and groups to assist in this research and develop recommendations; and be it further

Resolved, That the California Postsecondary Education Commission complete the study prior to December 1, 1986, and that the results be transmitted to the Senate and Assembly Education Committees, the Assembly Committee on Economic Development and New Technologies, the Joint Committee on Science and Technology, and to the Mathematics Engineering Science Achievement and Minority Engineering Program offices located in

the Lawrence Hall of Science at the University of California at Berkeley; and be it further

Resolved, That the data derived from the "needs assessment" required in Public Law 98-377 and conducted in California schools be included in the report developed in conjunction with this resolution; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the California Postsecondary Education Commission.

RESOLUTION CHAPTER 95

Senate Concurrent Resolution No. 23—Relative to missing children.

[Filed with Secretary of State September 17, 1985]

WHEREAS, Chapter ____ of the Statutes of 1985, enacted Section 11114.1 of the Penal Code to require the Department of Justice to operate a statewide toll-free 24 hour telephone hotline to receive information regarding missing children and to relay that information to law enforcement authorities; and

WHEREAS, Cable television systems franchised by cities and counties and offering community service programming are uniquely capable of publicizing information concerning missing children; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature hereby encourages and urges cable television systems to include in their community service programming any information which may aid viewers in identifying and reporting the whereabouts of missing children, including the dissemination of the centralized telephone number of the Department of Justice which citizens may utilize to report any information concerning missing children.

RESOLUTION CHAPTER 96

Senate Concurrent Resolution No. 26—Relative to fire safety standards.

[Filed with Secretary of State September 17, 1985]

WHEREAS, Recent fires in the State Capitol building and at the State Department of Consumer Affairs building have caused extensive damage to state property and placed the lives of state employees at stake; and

WHEREAS, It is impossible to prevent all fires, especially when an

arsonist, for whatever reason, is intent on setting such blazes; and

WHEREAS, Fire safety standards for state-owned buildings appear to be less strict than local regulations and safety hazards may exist in the 55 state-owned buildings administered by the Department of General Services; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the State Fire Marshal and the Director of General Services conduct a study to determine which state-owned buildings administered by the Department of General Services are in violation of existing fire and safety building standards and also, to combine their resources and estimate the cost of bringing each building under its control up to local fire safety standards; and be it further

Resolved, That the Department of General Services and the State Fire Marshal devise a plan whereby they would work in conjunction with local fire enforcement agencies to establish a fire emergency preparedness program; and be it further

Resolved, That the Director of General Services and the State Fire Marshal complete the study and report the results to the Legislature on or before October 1, 1986; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Department of General Services and to the State Fire Marshal.

RESOLUTION CHAPTER 97

Senate Concurrent Resolution No. 38—Relative to Newport Bay Pollution.

[Filed with Secretary of State September 17, 1985]

WHEREAS, Upper Newport Bay and Newport Harbor constitute an invaluable natural resource to be maintained and preserved to every extent possible; and

WHEREAS, Newport Bay and Newport Harbor constitute an invaluable recreational and tourist resource to the Orange County coast and to our state and nation as a whole; and

WHEREAS, It is public policy that the quality of water used for recreation, fishing, and consumption must be safe to the public for those uses; and

WHEREAS, There is growing public concern over the potential problem of toxics in our recreational and consumption supplies of water; and

WHEREAS, Recent monitoring of Newport Bay has produced evidence of the presence of toxics in the bay; and

WHEREAS, DDT and other toxics, such as trace metal concentrations, have been identified at all stations sampled as part

of the monitoring program and have included extremely high concentrations of DDT at six of the 22 monitored stations; and

WHEREAS, A recent investigation of the bacterial quality of the bay strongly implicated vessel waste discharges as significant bacterial sources of bay pollution; and

WHEREAS, These findings have increased the public's concern over the safety of recreational opportunities in Newport Bay and the safety of the consumption of fish caught in the vicinity of Newport Harbor; and

WHEREAS, It is in the best interests of Newport Bay, the surrounding communities, and the state at large to designate one coordinating agency with primary responsibility for the regulation, monitoring, surveillance, and enforcement of the discharge of pollutants of whatever nature within the watershed of Newport Bay so as to result in the more effective protection of water quality in Newport Bay; and

WHEREAS, Section 13225 of the Water Code charges the California regional water quality control board of each region of the state with the responsibility for coordinating action by local, state, and federal agencies to prevent and abate water pollution within its region; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature reaffirms the authority designated to the California Regional Water Quality Control Board, Santa Ana Region, in carrying forth the responsibilities of Section 13225 of the Water Code for Newport Bay; and be it further

Resolved, That the regional board vigorously and effectively implement Section 13225 of the Water Code with respect to the pollution concerns of Newport Bay; and be it further

Resolved, That the regional board utilize a portion of its state funding to prepare a report on the water quality of the bay and the bay's watershed; and be it further

Resolved, That the report prepared by the regional board include recommendations for a specific action plan on the part of local, state, and federal agencies to protect the quality of water in Newport Bay from unhealthful pollutants; and be it further

Resolved, That the report prepared by the regional board be submitted to the Legislature not later than November 15, 1985; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the State Water Resources Control Board, the California Regional Water Quality Control Board, Santa Ana Region, the Department of Fish and Game, the County of Orange, and the City of Newport Beach.

RESOLUTION CHAPTER 98

Senate Concurrent Resolution No. 39—Relative to commending the Merchant Marine Veterans of World War II.

[Filed with Secretary of State September 17, 1985]

WHEREAS, From 1941 to 1945, the Merchant Marine Veterans of World War II distinguished themselves above the call of duty in numerous perilous situations to serve the different branches of the United States armed services, and it is appropriate on the anniversary of the end of World War II, that the men who served their country so valiantly be honored and commended by the people of California; and

WHEREAS, The Merchant Marine fleet carried four-fifths of the supplies for the entire United Nations war effort, and continued their duty after the war, when the service worked to provide relief to areas devastated by the war, including a monthly average of 1,500,000 tons of coal, 800,000 tons of grain, and 200,000 tons of flour; and

WHEREAS, During the war, the Merchant Marine had dual duties--they were the main link between the production fronts and the fighting fronts all over the world; and

WHEREAS, The Army and Navy used the merchant ships as transporters, airplane carriers, hospital ships, fleet oilers, and submarine tenders; the ships carried troops and materials to battlefield staging areas all over the world; and the ships brought in the raw materials which kept up the production on the home front; and

WHEREAS, For deeds of heroism, the Merchant Marine Veterans of World War II were awarded 145 Distinguished Service Medals and 426 Meritorious Service Medals; and each merchant ship had guns on it which were manned equally by the men of the Navy and the men of the Merchant Marine; and

WHEREAS, The first loss occurred on November 8, 1940, and did not end until after the surrender of Japan; 757 ships and more than 6,000 merchant seamen were lost and 600 seamen were captured and made prisoners of war; and

WHEREAS, The Merchant Marine Veterans of World War II were all volunteers, who manned the "bridge of ships" to transport men and materials through dangerous waters of combat zones, without which the Allies would have lost the war; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof, concurring, That the Legislature honors and commends the men who served in the Merchant Marine Veterans of World War II during World War II, recognizes the integral part they played in helping the Allies to victory, and extends the appreciation and gratitude of the people of California; and be it further

Resolved, That the Secretary of the Senate transmit a suitably prepared copy of this resolution to the author for appropriate distribution.

RESOLUTION CHAPTER 99

Senate Concurrent Resolution No. 44—Relative to "Coast Week" and "California Coastal Clean-Up Day."

[Filed with Secretary of State September 17, 1985]

WHEREAS, The State of California has a varied coastline of sandy beaches, rocky shores, productive estuaries, marshes, tidal flats, urban areas, and harbors; and

WHEREAS, The coast provides a rich scenic, recreational, cultural, and historical heritage; and

WHEREAS, The natural resources of the coastal zone are among California's most important economic resources; and

WHEREAS, The marine environment is one of the most valuable resources for recreation, tourism, fishing, and other coastal industries; and

WHEREAS, The Legislature of the State of California is strongly committed to the wise management of the coastline to ensure that the environmental and economic value of the coastal zone will be sustained; and

WHEREAS, Preserving the productivity and quality of coastal resources requires public awareness, support, and an understanding that protection of the coast is a responsibility shared jointly, by individual citizens, the business community, and public institutions; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature hereby declares that the week of September 21 through 28 be proclaimed as "Coast Week" and the day of September 21 be proclaimed as "California Coastal Clean-Up Day;" and be it further

Resolved, That individual citizens, businesses, groups, and public institutions are encouraged to observe this event and to participate in appropriate activities designed to promote a healthy and productive coastal environment for the benefit of the people of California and the nation; and be it further

Resolved, That copies of this resolution be transmitted by the Secretary of the Senate to the California Coastal Commission who shall transmit copies to all local governments in the coastal zone, the State Coastal Conservancy, the Resources Agency, the San Francisco Bay Conservation and Development Commission, the Department of Parks and Recreation, the Department of Fish and Game, and the Department of Boating and Waterways.

RESOLUTION CHAPTER 100

Senate Concurrent Resolution No. 45—Relative to commending the United States Marine Corps on the occasion of its 210th anniversary.

[Filed with Secretary of State September 17, 1985.]

WHEREAS, On November 10, 1775, a corps of American Marines was created by a resolution of the Continental Congress and, since that date, many thousands of Californians have proudly borne the title of Marine; and

WHEREAS, In the memory of these Marines, it is fitting that the people of California should commemorate the 210th anniversary of the founding of the United States Marine Corps by calling to mind the glories of the long and illustrious history of the Corps; and

WHEREAS, The record of the U.S. Marine Corps is one which bears comparison with that of the most famous military organizations in the world's history, and that illustrious record was compiled by a long line of silent men--stretching from its first landing at New Providence Island during the Revolutionary War, from Trenton, Princeton, and Charleston, from the shores of Tripoli to the battlements of Chapultepec, from Manassas and Mobile Bay, from Santiago and Samar and the Boxer Rebellion, from the Dominican Republic and Nicaragua and Haiti, from the heroics of the "devil dogs" at Bouresches, Soissons, Blanc Mont, and the Argonne, down through the great battles of the Pacific War, from the steaming jungles of Guadalcanal, Tarawa, Peleliu, and Okinawa to the heights of Suribachi, from the bitter fighting of Korea, the landing at Inchon and the frozen wastes at the Chosin Reservoir and Toktong Pass, the Hook, and Panmunjom, and from the skies over Quang Nam and Khe Sanh, the paddies of Chu Lai, the streets of Hue and Da Nang, to bitter actions at Beirut and Grenada; and

WHEREAS, The Marine Corps played a significant and pivotal role in the establishment of statehood for California, beginning with the proclamation of the Bear Flag Republic, landing at San Francisco, Monterey, San Diego, and San Pedro, and participated in actions at Los Angeles, Santa Clara, La Mesa, San Pasqual and the San Gabriel River; and

WHEREAS, Since the inception of the Corps, Marines have won foremost honors for their protection of the principles of liberty and justice for all, and they have served with the greatest distinction, thereby securing for this country long periods of tranquillity at home because the Corps has always been prepared to meet any challenge in either hemisphere and in every corner of the seven seas to ensure that our great nation might enjoy peace and security; and

WHEREAS, The soldierly repute of those who are Marines today has been handed down from those who preceded them in the Corps, and, with this legacy, they have also received the eternal spirit which

has strengthened the Corps from generation to generation and which has been the distinguishing mark of a Marine in every era; and

WHEREAS, So long as that esprit de corps continues to flourish, Marines will be found equal to every turn of events as they have in the past, and the men and women serving as Marines of today are worthy successors to the long line of illustrious Marines who have served as this Nation's "Soldiers of the Sea"; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That, on the occasion of the 210th anniversary of the Corps, the Legislature of the State of California commends the United States Marine Corps on its outstanding contributions to California, the United States of America, and the free world in the cause of peace and freedom; and be it further

Resolved, That the Legislature encourages all Californians to join with the members of the United States Marine Corps in their celebration of this special birthday; and be it further

Resolved, That the Legislature proclaims the weekend of November 8 through November 10, 1985, as "United States Marine Corps Days" and requests the Governor to issue a proclamation thus designating those dates; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Governor.

RESOLUTION CHAPTER 101

Senate Joint Resolution No. 28—Relative to methanol-powered vehicles.

[Filed with Secretary of State September 17, 1985]

WHEREAS, The United States Environmental Protection Agency has not approved the plan submitted by the South Coast Air Quality Management District to achieve health-based air quality standards as required by the Clean Air Act; and

WHEREAS, The Environmental Protection Agency has directed the State Air Resources Board and the South Coast Air Quality Management District to develop and adopt additional motor vehicle and stationary source emission control measures; and

WHEREAS, Other air basins in California are not expected to attain ambient air quality standards by 1987 as required by the Clean Air Act; and

WHEREAS, The air quality management plan for southern California adopted by the Southern California Association of Governments and the South Coast Air Quality Management District includes the determination that additional motor vehicle and stationary control measures incorporating even the most highly advanced and expensive pollution control technology will not, by

themselves, bring the South Coast Air Basin within even reasonable compliance with the federal and state ambient air quality standards; and

WHEREAS, The air quality management plan for the South Coast Air Basin concluded that the substitution of cleaner burning fuels such as methanol for petroleum was the only remaining available strategy which would provide significant reductions in ambient concentrations of photochemical ozone; and

WHEREAS, Scientific analysis and technical studies conducted by the State Air Resources Board, the State Energy Resources Conservation and Development Commission, and the Environmental Protection Agency have confirmed that methanol-powered motor vehicles are capable of achieving reductions in emissions that could result in reductions in ozone levels in nonattainment areas; and

WHEREAS, The Environmental Protection Agency has issued an advanced notice of proposed rulemaking in order to eliminate regulatory barriers to the introduction of methanol-powered vehicles into the marketplace, and that the most significant of the proposed actions would be to provide a credit against fuel economy standards to auto manufacturers for the production of vehicles which operate on methanol, in recognition of the petroleum replacement value of methanol fuel; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to recognize the air quality benefits of methanol-powered vehicles and the important contribution they could make to improving air quality and energy security in California, and to reflect the petroleum replacement value of methanol fuel by providing auto manufacturers with a credit against their corporate average fuel economy standards for the production of methanol-powered vehicles, as well as for vehicles which are designed and optimized to operate on at least 85 percent methanol, but which can also operate on gasoline, methanol, or ethanol, or any combination of those fuels; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Transportation, to the Administrator of the Environmental Protection Agency, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 102

Senate Concurrent Resolution No. 25—Relative to motor vehicle and stationary sources of oxides of nitrogen emissions.

[Filed with Secretary of State September 19, 1985.]

WHEREAS, Motor vehicles and stationary sources are the principal sources of oxides of nitrogen emissions into California's air; and

WHEREAS, Oxides of nitrogen are a major contributor to the formation of atmospheric nitrogen dioxide, particulate matter, photochemical oxidants, and acid rain and acid fog, as well as a major contributor to visibility degradation; and

WHEREAS, Atmospheric nitrogen dioxide, particulate matter, and photochemical oxidants are known to have an adverse impact on public health and the environment; and

WHEREAS, Acid deposition is occurring in various regions of California and may have significant adverse effects on the environment, on the economy, and on public health; and

WHEREAS, The South Coast Air Quality Management District is the only area in the United States which has been designated as a nonattainment area for the health-based ambient air quality oxides of nitrogen standard, and has recorded an extremely high level of acidity in the atmosphere of parts of southern California; and

WHEREAS, Reduction in vehicular and stationary sources of oxides of nitrogen emissions may be necessary to support continued economic growth in the South Coast Air Basin; and

WHEREAS, On January 14, 1983, the State Air Resources Board submitted a "Report to the Legislature on the Benefits and Feasibility of a 0.4 Gram Per Mile Oxides of Nitrogen Emission Standard for Passenger Cars and Light Trucks" which shows that there is sufficient evidence to justify the adoption of such an emission standard; and

WHEREAS, Other vehicular sources of oxides of nitrogen, such as medium and heavy duty vehicles, locomotive, and marine vessels should be subjected to additional emission controls and to the substitution of cleaner-burning fuels as soon as technologically feasible, and California should take all appropriate steps to accelerate the development of these control options; and

WHEREAS, New and existing stationary sources of oxides of nitrogen, including electric generating facilities, waste disposal and resource recovery facilities, petroleum production and refining operations, and other combustion sources should be subjected to additional emission controls or the substitution of cleaner-burning fuels as soon as technologically feasible, and California should take appropriate steps to accelerate the development and application of innovative control strategies; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly

thereof concurring, That the State Air Resources Board is requested to hold a public hearing to consider the adoption of a 0.4 gram per mile oxides of nitrogen exhaust emission standard for light duty motor vehicles; and be it further

Resolved, That the State Air Resources Board is requested to hold a public hearing to consider the adoption of additional oxides of nitrogen and particulate standards for medium and heavy duty motor vehicles for the 1989 and later model years; that the board is also directed to consider the technological feasibility, economic cost, and air quality benefit of reducing, and the adoption of specific strategies to reduce, emissions from motor vehicles, such as tighter specifications on fuel quality and composition and the substitution of cleaner-burning fuels; and be it further

Resolved, That the State Air Resources Board analyze the impact of motor vehicle and stationary sources of oxides of nitrogen emission on visibility and on acid deposition in and beyond the region where they are generated; and be it further

Resolved, That the State Air Resources Board include, in its next annual report to the Legislature on its actions to implement the Kapiloff Acid Deposition Act submitted pursuant to Section 39909 of the Health and Safety Code, a description of the current availability and technological feasibility in the near future of advanced emission controls and cleaner-burning fuels for all types of motor vehicles and stationary sources of oxides of nitrogen, the actions which the board is taking to accelerate the development of these additional control strategies and the need for additional actions by the Legislature, the extent to which existing rules and regulations of the districts are likely to prevent current acid deposition levels from increasing in sensitive regions of California, and the board's proposed actions and recommendations to reduce current levels of acid deposition and to prevent population and economic growth and increased energy development in the state from resulting in increased levels of acid deposition in sensitive areas of California or in areas where public health could be adversely affected; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Chairman of the State Air Resources Board.

RESOLUTION CHAPTER 103

Senate Concurrent Resolution No. 47—Relative to the Kenneth Hahn Act.

[Filed with Secretary of State September 19, 1985]

WHEREAS, Supervisor Kenneth Hahn, a person with a distinguished record of 37 years of public service, has contributed immeasurably to the advancement of his community and state,

especially through his outstanding contributions to the development of an efficient transportation system in Los Angeles County; and

WHEREAS, The people of Los Angeles have for years had to breathe polluted air due to unprecedented traffic jams and emission of photochemical smog; and

WHEREAS, Kenneth Hahn took the lead in drafting and working for the passage of Proposition A, which appeared on the November 1980 ballot, and on July 11, 1985, the Board of Directors of the Southern California Rapid Transit District unanimously resolved to identify the proposition as "Proposition A - the Kenneth Hahn Act"; and

WHEREAS, Proposition A will provide funds for the largest community transportation project west of the Mississippi, as well as finance the San Fernando Valley-Downtown Los Angeles Metro Rail Line, the Long Beach Rail Line, and the transit system of Los Angeles; and

WHEREAS, Proposition A funds have been used to fund 84 cities in Los Angeles County for transportation purposes and for the past three years, funds were used to subsidize the bus fares of commuters who were able to use public transit instead of their automobiles; and

WHEREAS, Supervisor Kenneth Hahn manifested discernment, perseverance, and commitment in support of making rapid transit a realistic goal; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Members recognize Proposition A as the Kenneth Hahn Act in honor of Supervisor Kenneth Hahn for his many accomplishments and contributions to the passage of Proposition A and for his support for development of an efficient transportation system for the people of Los Angeles County; and be it further

Resolved, That the Secretary of the Senate transmit a suitably prepared copy of this resolution to Supervisor Kenneth Hahn.

RESOLUTION CHAPTER 104

Senate Joint Resolution No. 23—Relative to Coast Guard Vessel Traffic Service.

[Filed with Secretary of State September 19, 1985]

WHEREAS, The United States Coast Guard is a branch of the armed services originally created to defend our coastline and to ensure safe and orderly marine navigation in our territorial waters; and

WHEREAS, During the last 10 years, the Coast Guard has been given many additional responsibilities pursuant to numerous federal acts, including the Boat and Safety Act, the Port and Waterways

Safety Act, the Port and Tanker Safety Act, the Fishery Conservation and Management Act, the Water Pollution Control Act, the Clean Water Act, and the OCS Land Act Amendments; and

WHEREAS, San Francisco Bay is one of only four areas in the country which, because of its unique conditions, has Coast Guard Vessel Traffic Service; and

WHEREAS, The 1984 Coast Guard's Vessel Traffic Service, by directing over 67,000 movements in San Francisco Bay, provided essential safety services for vessels using the bay and its numerous ports and harbors, including inland Sacramento-San Joaquin Delta port; and

WHEREAS, The Coast Guard has in the past stated that the Vessel Traffic Service is a major factor in avoiding ship collisions; and

WHEREAS, Termination of this service will pose a serious threat to navigation and create unnecessary risks to life, property, and the environment; and

WHEREAS, Alternatives for operation of a marine navigation traffic system other than by the United States Coast Guard have been fully explored and found infeasible, in part because no agency has the respect and competence of the Coast Guard; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to provide full congressional funding to continue the Coast Guard Vessel Traffic Service in San Francisco Bay; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Secretary of Transporation, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 105

Senate Joint Resolution No. 30—Relative to federal income taxation.

[Filed with Secretary of State September 19, 1985]

WHEREAS, The President of the United States has proposed a federal income tax reform plan to promote "fairness, simplicity, and growth"; and

WHEREAS, The President's plan for tax reform would eliminate the deduction for state and local taxes paid by individuals; and

WHEREAS, The elimination of the deduction for state and local taxes would be an unfair tax upon a tax and, therefore, would constitute double taxation; and

WHEREAS, Seventy-five years ago, the simple concept of state

and local tax deductibility was built into the federal income tax law in explicit recognition of the principle of federalism; and

WHEREAS, The Tenth Amendment of the United States Constitution reserves to the states and the people powers not expressly delegated to the federal government; and

WHEREAS, The elimination of the deduction for state and local taxes would impose a disproportionate tax burden on middle-income taxpayers; and

WHEREAS, The citizens of the State of California would pay approximately $3.8 billion in higher taxes under this provision of the President's proposal; and

WHEREAS, The federal government in recent years has shifted major responsibilities to state and local governments in the spirit of federalism; and

WHEREAS, The abolition of the deduction for state and local taxes will seriously impair the ability of state and local governments to discharge these new responsibilities; now, therefore, be it

Resolved, by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California memorializes the President and the Congress of the United States to retain the deductibility of state and local taxes in any revision of federal income tax law which is enacted; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 106

Senate Joint Resolution No. 37—Relative to boxing.

[Filed with Secretary of State September 19, 1985.]

WHEREAS, Boxing is a permanent fixture in the professional sporting establishment of this country; and

WHEREAS, Unlike most other sports, its internal regulatory agencies are fragmented; and

WHEREAS, Its participants are supported in a piecemeal fashion with insufficient consideration given to their safety and overall well-being; and

WHEREAS, The New Jersey State Commission of Investigation has documented heavy infiltration of the sport by organized crime; and

WHEREAS, Most states have failed to stand up to unscrupulous promoters whose motivation is profit rather than the health and welfare of professional boxers; and

WHEREAS, Twenty-three fighters have died of injuries suffered in the boxing ring since January 1983; and

WHEREAS, Although boxing has great inherent risk to its participants, with proper regulation this risk could be reduced significantly; and

WHEREAS, A bill in the House of Representatives, H.R. 1689, would create the American Boxing Corporation, a national oversight committee and central registry for boxers; and

WHEREAS, This central registry would bring to an end, mismatches, relentless scheduling of interstate fights, and the practice of allowing boxers to fight past their abilities; and

WHEREAS, The boxing fatalities have occurred as a consequence of the lack of pertinent information, and because no one has the responsibility, or the oversight, for what is happening in other states; and

WHEREAS, National regulatory controls and public scrutiny are vital to the survival of professional boxing; now, therefore, be it

Resolved, by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California urges the Congress of the United States to enact H.R. 1689, which would form the American Boxing Corporation to help improve the sport of boxing through the establishment of standardized rules and rankings; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 107

Assembly Concurrent Resolution No. 23—Relative to the Commission for the Review of the Master Plan for Higher Education.

[Filed with Secretary of State September 20, 1985]

WHEREAS, One of the employment goals of California's institutions of public higher education is the recruitment, employment, retention, and promotion of top talent to carry out their educational missions; and

WHEREAS, The policies adopted by the governing bodies of the three public segments of California's institutions of higher education relative to hiring, promotion, and discharge of faculty and staff have not recently been commented on by the California Postsecondary Education Commission to the Legislature; now, therefore, be it

Resolved, by the Assembly of the State of California, the Senate thereof concurring, That the California Postsecondary Education

Commission review data submitted by each segment, compile the data into a report, make comments and submit the report to the Legislature regarding the policies of each segment relative to hiring, promotion, and discharge of faculty and staff; and be it further

Resolved, That the commission comment on these policies and practices as to the effect on recruitment, retention, and promotion of top talent to carry out the educational mission in each segment; and be it further

Resolved, That the commission analyze these policies and practices in light of the unique requirements in each educational segment and their various disciplines; and be it further

Resolved, That the Board of Governors of the California Community Colleges, the Trustees of the California State University, and, if they elect to do so, the Regents of the University of California prepare the necessary data and information to assist the commission in the study required by this measure.

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the commission, and the governing body for each segment of public higher education in California.

RESOLUTION CHAPTER 108

Assembly Concurrent Resolution No. 27—Relative to South Africa.

[Filed with Secretary of State September 20, 1985]

WHEREAS, The California Legislature condemns the abhorrent system of apartheid as practiced by the government of the Republic of South Africa; and

WHEREAS, South Africa's white minority government denies the black majority basic democratic rights, including the right to vote, the right to own land, the right to freedom of movement, and equal employment opportunity, solely on the basis of skin color; and

WHEREAS, Per capita spending on education in 1980–1981 by the government for white South Africans was one thousand one hundred fifteen dollars ($1,115), and per capita spending on education for black South Africans was one hundred seventy dollars ($170); and

WHEREAS, Access to advanced education, scientific research, and technical training by the white minority is used to reinforce the overall system of apartheid and white supremacy; and

WHEREAS, The General Assembly of the United Nations in Resolution 36/1721 (1981) commends all efforts to promote an effective academic, cultural, and sports boycott of South Africa, and to mobilize academic, cultural, and sports personalities in the campaign against apartheid; now, therefore, be it

Resolved by the Assembly of the State of California, The Senate thereof concurring, That the University of California is urged not to

participate in any scientific, cultural, or academic exchanges that help to maintain or strengthen the apartheid system in the Republic of South Africa; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Regents of the University of California.

RESOLUTION CHAPTER 109

Assembly Concurrent Resolution No. 30—Relating to South African gold currency.

[Filed with Secretary of State September 20, 1985.]

WHEREAS, The Republic of South Africa mints and promotes sales of a gold coin known as the Krugerrand; and

WHEREAS, Since 1975, the United States market has accounted for 30 percent to 50 percent of all Krugerrand sales; and

WHEREAS, The sale of the Krugerrand in the United States was estimated to be four hundred fifty million two hundred thousand dollars ($450,200,000) in 1983 and four hundred eighty-four million seven hundred thousand dollars ($484,700,000) in 1984; and

WHEREAS, Ninety percent of the workers in South Africa's gold mines are black and receive a fifth of the average salary paid a worker who is white; and

WHEREAS, The Krugerrands are a product of highly exploited labor working in extremely unsafe conditions; and

WHEREAS, Despite the fact that over 80 percent of its population is black, the Republic of South Africa rigidly pursues the repressive policy of apartheid, a system of racial segregation intended to promote and maintain white ascendancy; and

WHEREAS, The California Legislature staunchly endorses the principle of equal rights for all persons and is concerned that its citizens may not be aware that purchase of the Krugerrand contributes to the support of the cruel apartheid policies of the Republic of South Africa; and

WHEREAS, Gold exports in 1983 provided 50 percent of South Africa's foreign exchange; and

WHEREAS, The role of gold is vital in enabling the South African government to finance its foreign exchange deficit and pay for costly capital goods, high technology, oil imports, and military hardware; and

WHEREAS, Other nations with repressive policies and laws may recognize the financial success of the Krugerrand, and decide to mint their own gold coins for sale in the United States; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California

protests the sale of Republic of South Africa gold currency in this state and urges every citizen of this state who advertises an offer to sell or purchase the Krugerrand coin to include in the advertisement a notice to the effect that the United States is presently imposing an arms embargo on the Republic of South Africa due to its racial policies.

RESOLUTION CHAPTER 110

Assembly Concurrent Resolution No. 34—Relative to missing children.

[Filed with Secretary of State September 20, 1985]

WHEREAS, The problem of missing children is a crucial one; and

WHEREAS, At the present time there is no standard procedure for the response of California law enforcement to reports of missing children; and

WHEREAS, There is a pressing need for an accurate study of this problem and for the assessment of the procedures utilized to respond to reports of missing children; now, therefore, be it

Resolved, by the Assembly of the State of California, the Senate thereof concurring, That the Legislature requests the Office of Criminal Justice Planning to conduct a study which would do all of the following:

(a) Examine the current method of classification of reports of missing children by law enforcement in California.

(b) Examine the current response procedures to reports of missing children by law enforcement in California.

(c) Identify model standards for the statewide classification of reports of missing children by law enforcement in California.

(d) Identify model standards for statewide response procedures to reports of missing children by law enforcement in California.

(e) Involve and include relevant public and private organizations and victim families in the process of procedural review.

(f) In conjunction with the Commission on Peace Officer Standards and Training, examine the current level of training provided to California law enforcement officers in the handling of reports of missing children; and be it further

Resolved, That the Office of Criminal Justice Planning is requested to submit the result of this study, together with recommendations for the development and implementation of uniform statewide procedures, to the Legislature within 18 months of the date this resolution is chaptered; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Office of Criminal Justice Planning.

RESOLUTION CHAPTER 111

Assembly Concurrent Resolution No. 35—Relative to the high school dropout problem.

[Filed with Secretary of State September 20, 1985]

WHEREAS, Under existing law, all children and youths between the ages of 6 and 16 years, inclusive, are subject to compulsory full-time education; and

WHEREAS, In the Class of 1982, 31 percent of the students did not graduate from high school and, according to the 1980 U.S. Census, 135,250 California youths between the ages of 14 and 17 years, inclusive, reported they were not in school; and

WHEREAS, Black and Hispanic youths are a large and growing segment of our school age population and they pose the greatest risk of dropping out of school; and

WHEREAS, Many school dropouts are under the age of 15 years, and 40 percent of school dropouts who also are Hispanic do so before the 10th grade; and

WHEREAS, School dropouts fit one or more of the following categories:

(a) They have low grades and 50 percent of the students who have D averages entering high school drop out.

(b) They are in the remedial or general track, and find school boring.

(c) They are chronically truant and alienated from their schools.

(d) They need or want work.

(e) They are pregnant; and

WHEREAS, There are school districts, schools, and programs in California successfully serving youths who pose a high risk for dropping out of or failing in school; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Superintendent of Public Instruction and the State Board of Education should exert leadership and deploy manpower and resources to help school districts solve this urgent and growing problem; and be it further

Resolved, That the Superintendent of Public Instruction shall notify each school district in California that 1986 is the "Year to Solve California's Dropout Problem"; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Superintendent of Public Instruction and the State Board of Education.

RESOLUTION CHAPTER 112

Assembly Concurrent Resolution No. 36—Relative to state highways.

[Filed with Secretary of State September 20, 1985]

WHEREAS, Quality maintenance and construction, on a timely basis, of the state highway system is essential to the economy of the state, as well as the safety and ease of travel for the public and all modes of highway transportation; and

WHEREAS, The continually increasing cost of construction, maintenance, and operation of the state highway system and the need for current and future state tax increases necessary to maintain a viable highway system is of concern to all levels of government; and

WHEREAS, A highway degradation methodology based upon static weight is used to determine the cost responsibility for taxation of various classes of vehicles uses; and

WHEREAS, The movement of vehicles upon the highways is not static in nature, but is dynamic in relation to highway impact; and

WHEREAS, The development of dynamic weight in relation to consideration of highway damage assessment and vehicle suspension requirements, and its potential for more accurately determining appropriate vehicle cost responsibility, represent improved scientific alternatives to current static weight assessment methodology; and

WHEREAS, An in-depth study of the dynamic weight in motion concept has the potential for providing a new operationally feasible formula for developing state legislation involving highway taxation and providing statewide economic potential in improved equipment requirements for lessening of vehicle weight impact on the highway; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Institute of Transportation Studies of the University of California is requested to study the concept of dynamic weight as a basis for determining highway degradation, improved highway pavement design, and potential vehicle equipment alternatives. The goal of the study should be to provide an evaluation of the theory of dynamic compatibility; and be it further

Resolved, That the Institute of Transportation Studies report to the Legislature by January 1, 1986, on the potential costs, methodologies, time requirements, and program contents related to the detailed study of the dynamic weight concept; and be it further

Resolved, That the institute coordinate the preparation of its report with the Department of Transportation and other appropriate entities to make use of existing research data on dynamic weight; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Secretary of the Business, Transportation and

Housing Agency, to the Director of Commerce, to the Director of Transportation, and to the Director of the Institute of Transportation Studies.

RESOLUTION CHAPTER 113

Assembly Concurrent Resolution No. 40—Relative to school facilities.

[Filed with Secretary of State September 20, 1985]

WHEREAS, The Governor's Infrastructure Task Force Report, a 1979 survey conducted by the State Department of Education, a 1980 survey conducted by the State Department of Finance, and the 1984 Status Report of Programs Administered by the State Allocation Board have all estimated the need for school facility construction, rehabilitation, and maintenance; and

WHEREAS, Existing law requires the State Allocation Board to develop and maintain an automated school facilities inventory; and

WHEREAS, There is no definitive report which updates and consolidates these efforts to measure school facility needs; and

WHEREAS, There is no correlation between state population and demographic estimates and school facility needs; and

WHEREAS, The school facility standards established in the Leroy F. Greene State School Building Lease-Purchase Law of 1976 (Chapter 22 (commencing with Section 17700) of Part 10 of the Education Code) are generally considered inadequate by school officials; and

WHEREAS, There is a lack of any other clearly defined standard for determining school facility needs; and

WHEREAS, In order to permit the Legislature to comprehensively and effectively address the school facilities issue, and to enable the State Allocation Board to develop a useful automated school facility inventory, a definition of an acceptable facility standard and of current and projected school facility needs must be established; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Superintendent of Public Instruction prepare a report that does all of the following:

(a) Estimates statewide need for new construction of school facilities and the costs thereof for each of the next two fiscal years. In determining this information, the superintendent shall consider all of the following:

(1) The school facility standards established in Chapter 22 (commencing with Section 17700) of Part 10 of the Education Code.

(2) State Department of Finance population estimates and projections.

(3) Facility information available from school districts.

(b) To the extent feasible, indicates the reliability of the information presented pursuant to subdivision (a), given the limitations of existing information regarding population changes, new residential construction, mandated educational programs, potential class size reduction, and existing school facility capacity limitations; and be it further

Resolved, That the State Department of Education shall consult with the Legislative Analyst regarding its work plan for preparing the report; and be it further

Resolved, That the Superintendent of Public Instruction present the report to the Legislature within six months of the effective date of this resolution; and be it further

Resolved, That the Legislative Analyst review the report submitted by the superintendent, and within 90 days following the receipt of the report, submit to the Legislature any comments and recommendations regarding the report that the Legislative Analyst deems appropriate; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the office of the Legislative Analyst and the Superintendent of Public Instruction.

RESOLUTION CHAPTER 114

Assembly Concurrent Resolution No. 41—Relative to transportation.

[Filed with Secretary of State September 20, 1985.]

WHEREAS, A high-speed passenger rail service has been proposed for the San Diego-Santa Ana-Los Angeles transportation corridor; and

WHEREAS, Feasibility studies have been conducted regarding this type of rail service between Los Angeles and Las Vegas; and

WHEREAS, The Legislature established the California Passenger Rail Financing Commission to review the financial soundness of proposed high-speed rail projects and authorized the Treasurer to issue tax-exempt revenue bonds for construction on these projects; and

WHEREAS, There appears to be a strong potential for high-speed rail service in a number of areas of the United States; and

WHEREAS, High-speed rail systems utilizing varying technologies have been developed by several countries, including the High Speed Train in Great Britain, the Shinkansen system in Japan, and the Tres Gran Vitesse in France; and

WHEREAS, It would be to the direct economic benefit to the state's economy if this technology could be produced in California;

now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Regents of the University of California examine the feasibility of conducting a high-speed rail study at the University of California in order to study the existing and future modes of high-speed rail technology, and the manner in which the high technology industry in California can best provide any needed expertise and equipment for this technology; and be it further

Resolved, That the Board of Regents report the board's findings and recommendations to the Legislature on or before January 1, 1987; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Regents of the University of California.

RESOLUTION CHAPTER 115

Assembly Concurrent Resolution No. 44—Relative to intellectual property rights in colleges and universities.

[Filed with Secretary of State September 20, 1985.]

WHEREAS, The research performed by public institutions of higher education in this state, often at the sponsorship of private industry, is vital to education in technical and other fields, and to the preparation of future faculty members in those fields; and

WHEREAS, With the recent increase in applied research has come greater conflict over the disposition of intellectual property rights in the results of that research; and

WHEREAS, The Legislature finds it necessary and desirable that policies concerning intellectual property rights be developed and articulated for public institutions of higher education in this state so as to minimize conflicts over their disposition; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Regents of the University of California, the Trustees of the California State University, and the Board of Governors of the California Community Colleges are hereby each requested to conduct an analysis of their current practices and policies regarding the disposition of intellectual property rights arising from research and development activities in their respective institutions, and to develop a policy statement for the colleges or universities within their respective jurisdictions that will assure an equitable distribution of interests in that intellectual property, based upon the relative contributions of all parties; and be it further

Resolved, That the analysis and policy development conducted in this regard by each of the above-named educational institutions address the relative rights, responsibilities, and incentives of authors, inventors, and others providing the creative element in the

development of intellectual property, of the colleges and universities under whose programs and facilities the research is performed, and of the entities that financially support or otherwise sponsor the research, as well as the assignment of rights in the intellectual property; and be it further

Resolved, That these policies reflect the principle that this state, and its public institutions of higher education, should retain an interest in intellectual property to the extent to which the creation of the property resulted from the contributions of the state or of those public institutions, including, but not limited to, funding, support services, laboratories, and equipment; and be it further

Resolved, That the policies so established be employed in all future negotiation of research contracts and acceptance of grants for research programs undertaken by the above-named educational institutions; and be it further

Resolved, That "intellectual property," for the purposes of this resolution, means all patents, copyrights, trademarks, and trade secrets developed as a result of research, except to the extent that the treatment of this information is preempted by federal law; and be it further

Resolved, That each of the above-named educational institutions is hereby requested to submit a report of its analysis and policy statement developed pursuant to this resolution no later than March 31, 1986, to the educational policy committee of each house of the Legislature, to the Joint Committee on Science and Technology, and to the Assembly Subcommittee on Economic Development and New Technologies; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Regents of the University of California, to the Trustees of the California State University, to the Board of Governors of the California Community Colleges, to the economic policy committee of each house of the Legislature, to the Joint Committee on Science and Technology, and to the Assembly Subcommittee on Economic Development and New Technologies.

RESOLUTION CHAPTER 116

Assembly Concurrent Resolution No. 46—Relative to health care services.

[Filed with Secretary of State September 20, 1985]

WHEREAS, Existing law does not contain adequate provisions to ensure the availability of preventive health services to senior citizens in this state; and

WHEREAS, Preventive health measures directed toward the older population would help alleviate costly medical and institutional

care and promote their health, well-being, and independence; and

WHEREAS, The health and well-being of our senior population impact directly upon state government and local community resources and services; and

WHEREAS, Senior citizens are a vital contributing segment of the population when they are able to maintain their health, well-being, and independence; and

WHEREAS, The proclamation of 1986 as Senior Health Year would serve to bring attention to the health care needs of senior citizens; and

WHEREAS, Establishment of a statewide preventive health screening program for senior citizens must take into consideration the specific needs of members of minority groups in order to effectively serve all segments of the senior population; now, therefore, be it

Resolved by the Assembly of the State of California, and the Senate thereof concurring, That the Legislature hereby proclaims 1986 as Senior Health Year; and be it further

Resolved, That a statewide functional health screening program be established, with services to be provided in senior centers and the assistance of volunteers to be encouraged wherever possible, in order to provide preventive health screening for senior citizens, with the program to take into consideration the special needs of minority seniors; and be it further

Resolved, That the Legislature and the Governor of the State of California enact appropriate legislation with an appropriation sufficient to address the concerns set forth in this measure; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this measure to the President pro Tempore of the Senate, the Speaker of the Assembly, and the Governor of the State of California.

RESOLUTION CHAPTER 117

Assembly Concurrent Resolution No. 47—Relative to physicians and surgeons.

[Filed with Secretary of State September 20, 1985]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Auditor General is requested to conduct an examination of the diversion program for physicians and surgeons who suffer from alcohol or drug abuse which is conducted by the Board of Medical Quality Assurance and report the findings of this examination to the Legislature no later than one year after the date this measure is chaptered; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of

the resolution to the Auditor General and to the Board of Medical Quality Assurance.

RESOLUTION CHAPTER 118

Assembly Concurrent Resolution No. 54—Relative to community college enrollment.

[Filed with Secretary of State September 20, 1985.]

WHEREAS, The California Community Colleges have experienced an extensive loss of enrollment in the past two years, resulting in the need for program and class reduction of an unprecedented magnitude; and

WHEREAS, Enrollment in inner-city schools has been particularly affected, to the point that the comprehensive nature of the course offerings of many of these colleges is threatened; and

WHEREAS, It may not be in the best interest of the people of the State of California that attendance at the public community colleges be restricted to a person's district of residence; and

WHEREAS, Community college districts are currently empowered to restrict the loss of students to neighboring districts through a notice of restriction, or to limit out-of-district attendance to certain courses or conditions through interdistrict attendance agreements, in order to stabilize enrollment; and

WHEREAS, The Legislature recognizes that community college district boundaries are often irregular in configuration, requiring many students to attend community colleges in less convenient locations; and

WHEREAS, One of the goals of the community colleges is providing each resident of the state an equal opportunity to attend the community college of their choice; and

WHEREAS, No comprehensive study has been made of the reasons that students choose to attend community colleges outside of their districts of residence; and

WHEREAS, No comprehensive study has been made of the effects of this student migration on duplication of courses and program offerings, recruitment of students, the fiscal integrity and financial planning capability of the community colleges that the students would otherwise attend, and the change in ethnic composition of affected colleges; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Commission for the Review of the Master Plan for Higher Education is hereby requested to conduct an investigation of these factors and to include, in its report to be conducted under Section 66903.7 of the Education Code, its findings and recommendations resulting from that investigation; and be it

further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Commission for the Review of the Master Plan for Higher Education and the Board of Governors of the California Community Colleges.

RESOLUTION CHAPTER 119

Assembly Concurrent Resolution No. 55—Relative to seismic safety.

[Filed with Secretary of State September 20, 1985]

WHEREAS, The State of California is one of the most active earthquake areas in the United States, and in recent years the state has examined its preparedness to deal with the crisis that would follow an earthquake in populated areas; and

WHEREAS, Attention is now being given to mitigating the effects of an earthquake, with the primary thrust being to ensure that structural damage and human injury would be at a minimum as a result of an earthquake; and

WHEREAS, There are now whole new parameters of consideration to be taken into account as buildings now contain extremely sensitive and costly equipment that has become vital in education, business, commerce, and health, among others, and records which are kept electronically must be protected; and

WHEREAS, Most of the above requirements cannot be met through past seismic design approaches which were directed toward survival of the building structure itself, and it is now necessary to protect the structure and the building contents; and

WHEREAS, There are emerging new technologies, such as base isolation, that can be incorporated into new building design or retrofitted into existing buildings which will protect both the building and its contents during a seismic event; and

WHEREAS, The officers of the state have a duty and responsibility for the protection of the property of the state, for the lives of the citizens of the state, and the prevention of the breakdown of the infrastructure of society in the aftermath of a major earthquake, and there is also a need to provide for uninterrupted operation of hospitals, rescue services, schools, and communications, as well as the necessity for the protection of public records in connection with social services and insurance; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the State Architect is hereby requested to give full consideration to new technology, including, but not limited to, base isolation, that can mitigate the effects of a major earthquake on new or existing public buildings, personnel, equipment, data

systems, and other elements of vital concern to the state that are at risk from seismic events; and be it further

Resolved, That the State Architect shall report back to the Legislature within 120 days after the effective date of this resolution on the actions taken to effect the use of new seismic technology in new building design or retrofitted into existing buildings; and be it further

Resolved, That the State Architect shall take whatever action is permitted under existing law to incorporate new seismic technology into state and other publicly owned, operated, or licensed buildings to mitigate the negative effects of earthquakes; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the State Architect.

RESOLUTION CHAPTER 120

Assembly Concurrent Resolution No. 58—Relative to student financial aid.

[Filed with Secretary of State September 20, 1985]

WHEREAS, The primary objective of student financial aid programs is to provide funds to students who have financial need; and

WHEREAS, Financial aid should be available as simply as possible to students who demonstrate financial need; and

WHEREAS, A major objective of the Legislature is to minimize unnecessarily complicated bureaucratic procedures in all areas of government, including the process by which an individual obtains student financial aid; and

WHEREAS, The state requires all students to fill out a financial aid application form as a condition for obtaining financial aid; and

WHEREAS, The instructions for the state's current student financial aid application form are 16 pages long, and the actual application form is four pages long, requiring at least 72 pieces of information, much of which seems incomprehensible and unnecessary; and

WHEREAS, The application form and process for obtaining student financial aid should not be so complex, bureaucratic, and tedious that it discourages and even prevents financially needy students from successfully applying for financial aid; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Student Aid Commission immediately appoint and convene a task force on the simplification of student financial aid application forms; and be it further

Resolved, That the task force be comprised of 13 members,

including a representative of all of the following organizations:

(1) The University of California.

(2) The California State University.

(3) The California Community Colleges.

(4) The Association of Independent Colleges and Universities.

(5) The student population of each of the entities specified in paragraphs (1) through (4).

(6) The Extended Opportunity Program of the California Community Colleges, the California State University, and the University of California, respectively. The President of the University of California is requested to appoint a University of California staff member who is knowledgeable about the Extended Opportunity Program.

(7) The Student Affirmative Action program of the California State University and of the University of California. The President of the University of California is requested to appoint a University of California staff member who is knowledgeable about the Student Affirmative Action Program; and be it further

Resolved, That the Student Aid Commission shall provide all necessary support staff for the task force; and be it further

Resolved, That the task force assist the commission in the examination of the current student financial aid application form, and seek methods to reduce and simplify both the instructions for, and the information required on, the financial aid application form in a manner which is consistent with requirements of federal student financial aid programs; and be it further

Resolved, That the Student Aid Commission report the recommendations of the task force to the Legislature on or before January 31, 1986; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Student Aid Commission.

RESOLUTION CHAPTER 121

Assembly Concurrent Resolution No. 59—Relative to Good Samaritan Week.

[Filed with Secretary of State September 20, 1985]

WHEREAS, Each year, countless Californians, in acts of genuine heroism, answer the call to assist victims of crimes, accidents, or natural disasters; and

WHEREAS, Called upon by fate, these men and women many times disregard their own personal health and safety to benefit others; and

WHEREAS, These "Good Samaritans," who display quick and decisive action in life-threatening situations or conditions of massive

property damage, ask for nothing in return; and

WHEREAS, Today, many programs, such as Neighborhood Watch and CPR courses, promote helping and provide persons with the tools necessary to effectively assist others in need of help; and

WHEREAS, It is appropriate that the efforts of these "Good Samaritans" be applauded and that all Californians be encouraged to take part in programs that promote helping, and that acts of heroism be encouraged and reinforced; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Governor is requested to proclaim the first week of November 1985, as "Good Samaritan Week" in the State of California and encourage citizens of the state to reflect upon their dependence upon one another and to become involved and lend assistance when called upon; and be it further

Resolved, That the Chief Clerk of the Assembly transmit suitably prepared copies of this resolution to the Governor and Michael J. Nanko.

RESOLUTION CHAPTER 122

Assembly Concurrent Resolution No. 61—Relative to Head Injury Awareness Month.

[Filed with Secretary of State September 20, 1985]

WHEREAS, Head injury is a very serious national health problem and as many as 700,000 Americans are hospitalized every year for head injuries caused by motor vehicle accidents, sporting mishaps, and falls. Of these patients, roughly 100,000 die. Another 50,000, mostly under the age of 30, suffer permanent brain damage that prevents them from returning to schools, jobs, or normal lives; and

WHEREAS, Each of these grim statistics represents a person whose bright future was suddenly and tragically altered. Added to each victim's suffering is the emotional and financial burden the family must bear. The total cost to the nation for special care and lost productivity is enormous; and

WHEREAS, Health care professionals and educators throughout California are helping those with head injuries to live as normally as possible. Through rehabilitation therapy and vocational counseling, many head injury patients are learning to lead productive lives in our society. These efforts have been promoted by two voluntary health agencies: the Southern California Head Injury Foundation and the Family Survival Project for Brain-Damaged Adults; and

WHEREAS, Biomedical research is also the source of increased hope. Investigators supported by the National Institute of Neurological and Communicative Disorders and Stroke are acquiring new information about what happens to the brain as a

result of head injury. Leads from these studies will help scientists develop effective treatments to limit or prevent brain damage. With the combined support of voluntary health agencies and the federal government, the tragedy of head injury can be substantially reduced; and

WHEREAS, To encourage public recognition of, and compassion for, the complex problems caused by head injury; now, therefore, be it

Resolved, by the Assembly of the State of California, the Senate thereof concurring, That the month of October 1985 be declared as "Head Injury Awareness Month."

RESOLUTION CHAPTER 123

Assembly Concurrent Resolution No. 62—Relative to state highways.

[Filed with Secretary of State September 20, 1985]

WHEREAS, The Department of Transportation has for several years administered a program of logo signing on rural portions of Interstate Route 5 in accordance with legislative direction; and

WHEREAS, This program has proven beneficial for motorists; and

WHEREAS, It is widely recognized that logo signing is appropriate only in rural areas; and

WHEREAS, The department has defined rural areas, for the purpose of the logo signing program, as those areas inhabited by fewer than 5,000 residents; and

WHEREAS, There are rural areas along Interstate Route 5 in Siskiyou County inhabited by up to 7,000 residents where logo signing would be appropriate; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Transportation define rural areas, for the purpose of the logo signing program, as those areas inhabited by 7,000 or fewer residents along Interstate Route 5 in Siskiyou County; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation.

RESOLUTION CHAPTER 124

Assembly Concurrent Resolution No. 67—Relative to the University of California.

[Filed with Secretary of State September 20, 1985]

WHEREAS, The Legislature recognizes that democratic political participation and a republican government require freedom of thought, speech, and association, and that under apartheid, those freedoms do not exist for a majority of South Africans; and

WHEREAS, The South African system of apartheid provides no means for democratic expression of political and civil rights; and

WHEREAS, The South African government will not tolerate open, organized opposition to apartheid, and South Africans who are active opponents of apartheid are subject to persecution, banning, detention without trial, and violence; and

WHEREAS, Attention given to international efforts against apartheid is increasing; and

WHEREAS, The University of California is a premier educational institution founded upon the principles of freedom of inquiry and association, and a belief in the importance of democratic values and institutions; and

WHEREAS, The University of California conducts public service programs to contribute to the fulfillment of the university's obligation to provide faculty and students with opportunities to apply their knowledge and expertise to the problems of modern life; and

WHEREAS, This established tradition has generally shared the university's resources of knowledge with those in society who have had the need and capacity to benefit from that knowledge; and

WHEREAS, The University of California's public service efforts have historically been directed toward improving educational opportunity, fostering freedom, and the general betterment of humankind; now, therefore, be it

Resolved, by the Assembly of the State of California, the Senate thereof concurring, That the President of the University of California is hereby requested to consider methods of engaging the university's public service mission, resources, and capacity in an enhanced effort to further social justice, civil liberties, and educational opportunities for Black and other oppressed South Africans, and that this effort include, but not be limited to, all of the following:

(1) The assistance of law faculty or students in ensuring adequate legal defense for those South Africans banned, detained without trial, or otherwise suffering persecution for their opposition to apartheid. The Legislature also requests the Board of Directors of the Hastings College of the Law to consider ways for its law faculty and students to participate in this legal defense program.

(2) Scholarships for South African students denied equal educational opportunity in their country. Scholarship recommendations that would deny scholarships to California students shall not be proposed nor shall any scholarships administered by or through the Student Aid Commission be recommended for use.

(3) Assistance by the university's Institutes of Industrial Relations in promoting the development of independent Black trade unions in South Africa.

(4) Educational and cultural exchange programs, including visiting scholar programs for South African writers, artists, scholars, and leaders who are denied a forum in their own homeland; and be it further

Resolved, That the President of the University of California and the Board of Directors of the Hastings College of the Law are requested to report to the Legislature on or before January 15, 1986, on the feasibility of establishing these programs and others like them; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the President of the University of California, and to the Board of Directors of the Hastings College of the Law.

RESOLUTION CHAPTER 125

Assembly Concurrent Resolution No. 69—Relative to the Department of Motor Vehicles.

[Filed with Secretary of State September 20, 1985.]

WHEREAS, The attempts of the Department of Motor Vehicles (DMV) to improve customer service while reducing staff and costs through implementing a statewide automation system has resulted in a significant backlog; and

WHEREAS, When the DMV switched from its traditional wait-in-line method of customer service to a call-for-appointment system, it fell behind in the processing of vehicle registrations and license plate applications; and

WHEREAS, Problems with the new appointment system and a new computer network have forced the DMV to request an additional $8.1 million to its 1985–86 budget; and

WHEREAS, A recent joint legislative hearing found the DMV to have cost overruns exceeding $32 million for the automation project, and cost may continue to escalate; and

WHEREAS, The Department of Finance was unaware of the cost overruns and did not take any control action to limit these cost overruns, because the DMV did not report its runaway costs to the Department of Finance as regulations require; and

WHEREAS, The DMV may not have enough staff to efficiently serve the public, because the DMV has cut personnel and frequently relied on costly overtime pay instead of hiring more employees; and

WHEREAS, The public has encountered extreme frustrations while the DMV attempts to automate its field offices; and

WHEREAS, The DMV, being the state agency with the largest

public exposure, has a profound effect on the citizens' satisfaction or lack of satisfaction with state government in general; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature requests the Governor and the Director of Motor Vehicles to modify the appointment system to include the option of appointments and walk-in service, allowing the public to choose the one most convenient to them, and to employ a sufficient number of employees to promptly and efficiently serve the people of California; and be it further

Resolved, That the department strive to obtain the needed equipment and staff to enable customers to reach its field offices by telephone within a reasonable period of time, to provide appointments within five working days and to service walk-in customers within 30 minutes; and be it further

Resolved, That the department report its progress in meeting these goals to the Legislature by October 1, 1985; and be it further

Resolved, That the Legislature requests the Department of Motor Vehicles and the Department of Finance to schedule expenditures in the Budget Bill for the 1986–87 fiscal year and succeeding fiscal years by program element, in order to provide the Legislature with a better understanding and oversight of the expenditures of the Department of Motor Vehicles; and be it further

Resolved, That the Department of Motor Vehicles provide the Assembly Committee on Transportation, the Assembly Committee on Governmental Efficiency and Cost Control, the Legislative Analyst, and the Department of Finance with quarterly reports on Phases II, III, and IV of the automation system, including all spending on each phase, all personnel year reductions, and identified cost savings associated with each automation phase, and updates on the status of implementing Phases III and IV; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Governor, the Secretary of the Business, Transportation and Housing Agency, the Director of Finance, and the Director of Motor Vehicles.

RESOLUTION CHAPTER 126

Assembly Concurrent Resolution No. 73—Relative to college preparation.

[Filed with Secretary of State September 20, 1985]

WHEREAS, A study of the rates of eligibility of California's 1983 high school graduates for admission to the state's public universities shows that the admissions requirements then in effect for the University of California and the California State University had a

differential impact on eligibility rates by sex and ethnicity; and

WHEREAS, The same eligibility survey found that failure to complete required courses in high school was a significant factor in eliminating Black and Hispanic students who were otherwise eligible from being otherwise admissible to the University of California; and

WHEREAS, The California State University, beginning in the fall of 1984, changed its admissions requirements to require two years of math and four years of English, and the effect of these requirements on eligibility rates are not yet known; and

WHEREAS, It is not known whether more extensive high school coursework requirements can be made available to increased numbers of students by all public high schools in California; and

WHEREAS, The requirement that specific courses be completed in high school as a prerequisite for admission to a college or university has been found to have a positive effect on high school performance; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Superintendent of Public Instruction, in cooperation with the Regents of the University of California and the Trustees of the California State University system, shall convene a Task Force on College Preparation, and shall make recommendations to the Commission on the Review of the Master Plan and the Joint Legislative Committee on the Master Plan on each of the following issues:

(a) Steps that should be taken to ensure that the full array of courses required for admission to either public university, taught by qualified faculty, can be made available in all California public high schools to all students who wish to take them. The Superintendent of Public Instruction shall survey each high school's course offerings and provide this information to the task force.

(b) Steps that should be taken to ensure that students who are underrepresented in higher education gain equal access to college preparatory courses.

(c) Measures of students' potential for future achievement in a college or university that could be used as alternatives to the measures of past achievement that are now used as admissions criteria.

(d) Whether the goals of access and differentiation of function between the two public university systems are compromised if there are uniform course requirements for admission to both systems, and whether uniform course requirements are in the best interest of California high school students; and be it further

Resolved, That the task force report shall prepare preliminary recommendations and make them publicly available for comment by March 15, 1986. Final recommendations shall be submitted to the State Board of Education, the Regents of the University of California, and the Trustees of the California State University system for their review and comment by June 30, 1986. Each of these boards is then requested to endorse or reject the recommendations by resolution

by August 31, 1986. The final recommendations of the task force, together with the resolutions of the governing boards, shall be transmitted to the California Postsecondary Education Commission, the Commission on the Review of the Master Plan, and the Joint Legislative Committee on the Master Plan no later than November 30, 1986; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Superintendent of Public Instruction, the Regents of the University of California, and the Trustees of the California State University.

RESOLUTION CHAPTER 127

Assembly Concurrent Resolution No. 74—Relative to the William Elton "Brownie" Brown Freeway.

[Filed with Secretary of State September 20, 1985]

WHEREAS, Mr. William Elton "Brownie" Brown, a resident of Tracy since 1934, has been very active in many business and civic activities over the past 50 years; and

WHEREAS, In addition to other community activities and responsibilities, Mr. Brown served for 12 years on the Highway 33 Association, six of which he was president, during which time he was instrumental in having State Route 205 constructed and in having Interstate 5 located on the far west side of the San Joaquin Valley near the hills, thus preserving valuable farm land; and

WHEREAS, Mr. Brown's other contributions to the betterment of the Tracy area are numerous and substantial; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That State Route 580, from State Route 205 on the north to Interstate 5 on the south be named the "William Elton "Brownie" Brown Freeway"; and be it further

Resolved, That the State Department of Transportation be directed to determine the cost of erecting appropriate plaques and markers, consistent with signing requirements for the state highway system, showing this official designation and, upon receiving donations from private sources covering that cost, to erect those plaques and markers; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a suitably prepared copy of this resolution to Mr. Brown and to the Director of Transportation.

RESOLUTION CHAPTER 128

Assembly Concurrent Resolution No. 75—Relative to the Robert T. Monagan Freeway.

[Filed with Secretary of State September 20, 1985.]

WHEREAS, The Honorable Robert T. Monagan, after graduating from, and working at, the University of the Pacific, left in 1950 to become Secretary-Manager of the Tracy Chamber of Commerce; and

WHEREAS, In 1953, he resigned his chamber post to become administrative assistant to the late Congressman LeRoy Johnson; and

WHEREAS, In 1954, he returned to Tracy to enter the insurance and real estate business where, in 1958, he was elected to the Tracy City Council and, while serving as mayor, he successfully ran for the Assembly; and

WHEREAS, The Honorable Robert T. Monagan served in the Assembly from 1960 to 1973; and

WHEREAS, Rising quickly to a position of leadership in the Assembly, the Honorable Robert T. Monagan was elected Minority Leader by his Republican colleagues in 1965, and was reelected to that post each succeeding year, except for the years he served as Speaker, from January 6, 1969, until January 4, 1971; and

WHEREAS, While he was a Member of the Assembly, he also served as President of the National Conference of State Legislative Leaders and on the Executive Board of both the Council of State Governments and the National Legislative Conference; and

WHEREAS, On March 6, 1973, he was appointed by the President as Assistant Secretary for Congressional and Intergovernmental Affairs in the United States Department of Transportation, where he remained until becoming President of the California Manufacturers Association on September 1, 1974, a position which he served until he took office as President of the California Economic Development Corporation on July 1, 1984; and

WHEREAS, The Honorable Robert T. Monagan is a member of the California State World Trade Commission, appointed by Governor George Deukmejian, a member of the Board of Directors of the Independent Colleges of Northern California, a member of the President's Advisory Council on Private Sector Initiatives, appointed by President Ronald Reagan, and a member of the Board of Directors of the California Journal; and

WHEREAS, Throughout his career in both the public and private sector, the Honorable Robert T. Monagan has served well the people of this state; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That State Highway Route 205 is hereby officially designated the Robert T. Monagan Freeway; and be it further

Resolved, That the Department of Transportation be directed to

determine the cost of erecting appropriate plaques and markers, consistent with signing requirements for the state highway system, showing this official designation and, upon receiving donations from private sources covering that cost, to erect those plaques and markers; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a suitably prepared copy of this resolution to the Honorable Robert T. Monagan.

RESOLUTION CHAPTER 129

Assembly Concurrent Resolution No. 84—Relative to the Leslie Charlene Curtis Memorial Plaque.

[Filed with Secretary of State September 20, 1985]

WHEREAS, On October 18, 1980, Leslie Charlene Curtis, age 19 years, was killed by a drunk driver at the intersection of South Norfolk and Highway 92; and

WHEREAS, The tragic death of Leslie Charlene Curtis stirred an enormous public outcry about the unsafe condition of the intersection and more than 12,000 signatures on petitions were collected by volunteers and presented to local, state, and federal officials demanding a new, safe interchange; and

WHEREAS, In large part due to the public awareness created by the death of Leslie Charlene Curtis, many obstacles and years of delay were overcome, and the project to reconstruct a safe intersection was subsequently approved and completed; and

WHEREAS, The tragic death of Leslie Charlene Curtis served to mobilize public concern, call attention to safety needs, and help save the lives of others; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, They support the placement of a plaque in memory of Leslie Charlene Curtis, paid for by privately donated funds, at the base of the newly constructed Highway 92/101 intersection to serve as a constant reminder of her sacrifice and the efforts of caring local citizens; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to George and Betty Autagne, Stephen Curtis, and the Director of Transportation.

RESOLUTION CHAPTER 130

Assembly Concurrent Resolution No. 85—Relative to Monterey Bay pollution.

[Filed with Secretary of State September 20, 1985.]

WHEREAS, Monterey Bay is the largest bay along the California Coast contiguous with Pacific Ocean waters and constitutes an invaluable natural resource to be protected and preserved for this and future generations; and

WHEREAS, Monterey Bay is the site of a large submarine canyon, which along with associated habitats, supports a rich and diverse flora and fauna; and

WHEREAS, The Monterey Peninsula is home to one of the world's largest seawater aquariums, attracting thousands of visitors daily; and

WHEREAS, Monterey Bay and its surrounding coastal beaches and communities is an invaluable recreational and tourist resource, serving millions of Californians and visitors from other states and abroad; and

WHEREAS, Elkhorn Slough is a natural estuary (located on the bay at Moss Landing), one of only 15 such areas in the nation designated an esturine sanctuary, and serves as a vital nursery and spawning ground for numerous species of marine organisms; and

WHEREAS, A healthy commercial and recreational fishery in the bay relies upon the recruitment of marine fish and invertebrates from Elkhorn Slough and its associated tributaries; and

WHEREAS, Recent pollution monitoring by the State Mussel Watch Program has revealed dramatically elevated levels of the pesticides toxaphene, endosulfan, and DDE (a derivative of DDT) in Elkhorn Slough and adjoining waters; and

WHEREAS, Mussels recently collected near the Monterey Harbor area contained the highest concentration of lead ever found in shellfish in California waters; and

WHEREAS, Unexpectedly high levels of polychlorinated biphenyls (PCBs) have been detected in mussels collected at Ano Nuevo, previously considered to be an unpolluted area; and

WHEREAS, Elevated levels of DDT, PCB, lead, and other toxins are known carcinogens, and have caused reproductive failures in certain marine mammals; and

WHEREAS, These findings have raised the public concern over recreational uses of Monterey Bay and Elkhorn Slough and the risk to human health; and

WHEREAS, It is in the interests of the citizens of the Monterey Bay area communities, and the state at large, to designate a lead state agency for coordinating marine pollution research, monitoring, and health risk assessment for Monterey Bay; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That, in order to protect the public health and

to protect the Monterey Bay environment and conserve its natural resources, it is in the public interest to prepare a comprehensive plan and establish a surveillance program for Monterey Bay pollution research, monitoring, and health risk assessment; and be it further

Resolved, That, in order to provide planning for, coordination of, and dissemination of information with respect to Monterey Bay pollution research programs, it is in the best interest of the state to designate the State Department of Health Services as the lead state agency for preparing the plan and to require the department, with the cooperation of all affected state and local agencies, when funds are made available, to carry out a comprehensive risk assessment program related to Monterey Bay pollution; and be it further

Resolved, That the department be assisted in preparing the plan by the Department of Fish and Game, the Department of Food and Agriculture, the State Water Resources Control Board, the Central Coast Regional Water Quality Control Board, the Moss Landing Marine Laboratories, the California Coastal Commission, the Marine Advisory Program of the Sea Grant Extension Service, the Monterey County Public Health Department, and the Monterey County Agricultural Commissioner; and be it further

Resolved, That the department submit the plan, accompanied by a status report on the present condition of water quality in the bay, including pollutant levels in sediments, fish, and shellfish, and a detailed budget for program implementation, to the Legislature not later than January 1, 1986; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the State Director of Health Services, the Director of Food and Agriculture, the Director of Fish and Game, the Chairperson of the State Water Resources Control Board, the Chairperson of Central Coast Regional Water Quality Control Board, the Moss Landing Marine Laboratories, the Chairperson of the California Coastal Commission, the Marine Advisory Program of the Sea Grant Extension Service, the Monterey County Public Health Department, and the Monterey County Agricultural Commissioner.

RESOLUTION CHAPTER 131

Assembly Joint Resolution No. 4—Relative to income tax deductions for repairing and remodeling expenses.

[Filed with Secretary of State September 20, 1985]

WHEREAS, Chapter 853 of the Statutes of 1984 amended the California Personal Income Tax Law and Bank and Corporation Tax Law to make permanent the allowance of a deduction for the cost of repairing or remodeling any building, facility, or transportation vehicle owned or leased by the taxpayer in order to permit

handicapped or elderly individuals to enter or leave, to have increased access to, or to have more effective use of, that building, facility, or transportation vehicle; and

WHEREAS, Federal law currently allows a similar deduction but the deduction applies only to taxable years beginning before January 1, 1986, and does not apply to homeowners or to the installation of emergency egress or safe area refuge systems; and

WHEREAS, There are not a sufficient number of dwellings accessible to physically handicapped and elderly persons and these persons have no alternative but to modify their existing dwellings to provide this access; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to amend the Federal Income Tax Law to include a deduction similar to that allowed by Chapter 853 of the Statutes of 1984 in order to encourage businesses to retrofit their buildings to provide access for handicapped persons, to enable elderly and handicapped homeowners to recover a portion of necessary costs incurred by them in modifying their dwellings to provide this access, and to encourage the installation of emergency egress or safe area refuge systems; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 132

Assembly Joint Resolution No. 16—Relative to the Federal Council on Women.

[Filed with Secretary of State September 20, 1985]

WHEREAS, Women and their basic socioeconomic concerns need coordinated representation in the executive branch of our national government; and

WHEREAS, Women and their socioeconomic concerns are also not adequately represented in Congress, since only a few of the proposals to prevent the expanding poverty of women have become law; and

WHEREAS, Women's economic and social concerns are not adequately dealt with by any official oversight mechanism on the national policymaking level to prevent the documented and growing trend called the feminization of poverty; and

WHEREAS, Large numbers of women of all ages who are classified

as dependents so often are dependent on absent providers; and

WHEREAS, Most women take the responsibility of being the primary care providers for their children and their elderly parents; and

WHEREAS, The stability of our society's future is at a serious risk due to the deprivations endured by so many children in poverty; and

WHEREAS, Since it is estimated that two out of three adults in poverty are women and since the United States government lacks any comprehensive national policy that addresses those women's economic issues that would provide some measure of income and health care security, especially as these problems relate to single parents and older women—adult groups that constitute a disproportionately high percentage of the nation's poor; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation which will establish a Federal Council on Women to operate as an independent agency and to function as an oversight body on matters relating to the feminization of poverty; and be it further

Resolved, That:

1. The Federal Council on Women perform the following functions designed to combat the growing feminization of poverty trend:

(a) Advise and assist the President, the Congress, and the Cabinet by reviewing proposed and existing laws and regulations related to the special needs of women.

(b) Review and evaluate on a continuing basis federal policies for a national voice on behalf of women by initiating policy recommendations.

(c) Inform the public about the problems and needs of those women in poverty by collecting and disseminating information.

(d) Provide public forums for discussing antipoverty measures for the disproportionately large numbers of indigent females.

(e) Serve in an advisory capacity by initiating policy recommendations that would reduce the numbers of indigent females of all ages.

2. Membership on the Federal Council on Women shall be comprised of 15 people with three members each appointed by the President and the Majority and Minority Leaders of both Houses of Congress. Each appointing authority shall name at least one person who represents a state commission on the status of women.

3. Until Congress enacts this proposed legislation, the President may wish to establish by executive order a Federal Council on Women following the guidelines proposed in this legislation; and be it further

Resolved, That the Chief Clerk of the Assembly is directed to transmit copies of this resolution to the President and Vice President

of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 133

Assembly Joint Resolution No. 17—Relative to state use taxes.

[Filed with Secretary of State September 20, 1985]

WHEREAS, The prompt, efficient, and accurate collection and reporting of state use taxes by persons selling tangible personal property in this state are goals of vital concern to both the government of the United States and the government of the State of California; and

WHEREAS, The accomplishment of those goals would be greatly facilitated by enacting federal legislation which would overturn the holding of National Bellas Hess, Inc. v. Department of Revenue of the State of Illinois, 386 U.S. 753, 18 L. Ed. 2d 505 (1967); now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature respectfully memorializes the President and the Congress of the United States to enact federal legislation which would reverse the holding in National Bellas Hess, Inc. v. Department of Revenue of the State of Illinois and thereby allow states to require mail-order houses to collect and report state use taxes; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 134

Assembly Joint Resolution No. 20—Relative to nuclear technology.

[Filed with Secretary of State September 20, 1985]

WHEREAS, It is fundamental to the conceptual foundations of America to promote and support the principles of freedom, justice, and the equality of all persons throughout the world; and

WHEREAS, The Republic of South Africa government with its system of apartheid violates every cherished principle of humanity espoused in the United States Constitution; and

WHEREAS, The South African government has embarked upon

the development of nuclear capability to sustain its colonial domination and suppression of the indigenous peoples of Namibia and Azania; and

WHEREAS, It is incumbent on the United States to refuse to cooperate with the nuclear programs of countries which violate the human rights of their citizens through systematic racial oppression; and

WHEREAS, The United States is committed by treaty to the nonproliferation of nuclear weapons; and

WHEREAS, The Republic of South Africa is a nonsignatory of the Treaty on Nuclear NonProliferation and refuses to permit inspections of its nuclear facilities by the Interntional Atomic Energy Agency; and

WHEREAS, Various agencies of our federal government, in pursuing the policy of "constructive engagement" with the government of the Republic of South Africa, have authorized the export and sale to the Republic of South Africa of goods, materials, and technology that have nuclear weapons applications; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California supports federal legislation that would do all of the following:

(1) Prohibit cooperation of any kind with regard to development of nuclear technology between the United States and the Republic of South Africa.

(2) Prohibit the Nuclear Regulatory Commission from issuing any license or other authorization under the Atomic Energy Act of 1954 for the export to the Republic of South Africa of anything—whether source or special nuclear material, component, technology, item, or substance—having significance for nuclear explosive purposes.

(3) Prohibit the Secretary of Commerce from issuing any license under the Export Administration Act of 1979 for the export, direct or indirect, to the Republic of South Africa of any goods or technology which are intended for a nuclear-related end-use or end-user of which have been identified as items which could be of significance for nuclear explosive purposes under the Nuclear Non-Proliferation Act of 1978.

(4) Prohibit the Secretary of Energy from authorizing any person, firm, or corporation to engage in activities in the Republic of South Africa related to the development of nuclear power technology

(5) Prohibit each and every department, agency, and official of the federal government, and every officer and employee of those departments and agencies, from making available to the Republic of South Africa, directly or indirectly, any technology or other information which could increase the ability of that country to design, develop, fabricate, test, operate, or maintain nuclear materials, nuclear facilities, or nuclear explosive devices; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of

this resolution to the President and Vice President of the United States, to the Secretary of Energy of the United States, to the Secretary of Commerce of the United States, to the Ambassador to the United Nations, to the Secretary of State of the United States, to the Speaker of the House of Representatives, to each Member of the Congress of the United States, and to the Governor of the State of California.

RESOLUTION CHAPTER 135

Assembly Joint Resolution No. 21—Relative to visas for South African athletes.

[Filed with Secretary of State September 20, 1985.]

WHEREAS, It is fundamental to the conceptual foundations of America to promote and support the principles of freedom, justice, and the equality of all persons throughout the world; and

WHEREAS, The Republic of South Africa government with its system of apartheid violates every cherished principle of humanity espoused in the United States Constitution; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California requests the United States Attorney General to refuse to issue visas to segregated South African teams and segregated athletes representing the government of South Africa to participate in athletic events in the United States; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the United States Attorney General, to the Secretary of State of the United States, to the Ambassador to the United Nations, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 136

Assembly Joint Resolution No. 22—Relative to South Africa.

[Filed with Secretary of State September 20, 1985]

WHEREAS, The Government of South Africa has as its legal and political framework the notorious system of apartheid, condemned by the world community because it is based on racial discrimination whereby the government rules with only the support of the minority white population while the black majority population is completely

denied its civil and human rights; and

WHEREAS, The United Nations has unanimously passed resolutions which condemn the system of apartheid as "a crime against humanity" and which call upon all countries in the world to grant asylum to refugees from South Africa, specifically those who are forced into exile as a result of their refusal to take part in the military forces waging war against black people in southern Africa on behalf of the white government of South Africa and the system of racial discrimination, apartheid; and

WHEREAS, The United States has a long tradition of accepting refugees from abroad who are suffering under repressive or totalitarian governments; and

WHEREAS, There is a growing number of South African military refugees who are seeking asylum in the United States while the President and his administration have issued no decision on applications for asylum which have been pending since early 1981; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the United States Department of State to welcome to the United States refugees from South Africa and to grant asylum specifically to those refugees from South Africa who have been forced to flee to the United States because of their refusal to participate or fight in the military forces of apartheid in South Africa, as well as all other refugees from the repressive regime in that country; and be it further

Resolved, That the Chief Clerk of the Assembly transit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the United States Department of State.

RESOLUTION CHAPTER 137

Assembly Joint Resolution No. 25—Relative to the sale of Krugerrands.

[Filed with Secretary of State September 20, 1985]

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to require that a notice be printed on all advertisements for the purchase and sale of South African Krugerrands to the effect that the United States has presently imposed an arms embargo on South Africa due to its racial policies; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of

this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 138

Assembly Joint Resolution No. 27—Relative to restitution to energy consumers.

[Filed with Secretary of State September 20, 1985.]

WHEREAS, The Congress of the United States passed the Emergency Petroleum Allocation Act after the Arab Oil Embargo of 1973 to protect the citizens of the United States from skyrocketing gasoline prices by denying oil companies windfall profits that might result from the exploitation of a sudden decrease in supply; and

WHEREAS, Oil companies still gained billions of dollars in profits by violating the provisions of the act; and

WHEREAS, Approximately $1.2 billion in overcharges has been recovered by the federal government through court judgments against oil companies which engaged in profiteering, with an estimated potential recovery of $5 to $6 billion; and

WHEREAS, This situation has caused one judge to declare, "The violators of the petroleum price regulations should be made to disgorge their ill-gotten gains"; and

WHEREAS, Cases are pending against Exxon, Texaco, ARCO, and other oil companies, and the share apportioned to the State of California could be as large as $500 million; and

WHEREAS, These court cases and federal legislation have established the concept of "restitution" to overcharged customers either directly or through certain beneficial energy programs, and thus these funds are to be distributed to the states through the Petroleum Violation Escrow Account, which was established for this purpose; and

WHEREAS, The federal administration's proposed budget for 1986 reduces the money provided states for the Low Income Home Energy Assistance Program and proposes to substitute each state's share of the assistance program money for its share of the Petroleum Violation Escrow Account money; and

WHEREAS, This proposed policy would be in direct opposition to the concept of "restitution" and to the United States Department of Energy's own rule that the funds shall not be used to supplant any existing program; and

WHEREAS, The federal government, as trustee for the account, has a fiduciary obligation to restore these funds to the beneficiaries of the trust, the injured energy consumers; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to halt all plans to utilize Petroleum Violation Escrow Account funds to supplant existing programs or to reduce the federal deficit, and instead to continue the practice of apportioning the funds to the states for restitution to energy consumers directly or through beneficial energy programs; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 139

Assembly Joint Resolution No. 29—Relative to the United States Postal Service.

[Filed with Secretary of State September 20, 1985]

WHEREAS, Large numbers of registered Californians are highly mobile and are changing residence frequently; and

WHEREAS, These changes in residency require some affirmative act by the voter or election official to continue the voter registration of registered voters at the new address; and

WHEREAS, Voters who have recently moved attach a low priority to reregistering to vote; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to enact legislation requiring the United States Postal Service to transmit a copy of a change of address order to elections officials in order to continue a voter's registration at his or her new residence; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States, and to the Postmaster General.

RESOLUTION CHAPTER 140

Assembly Joint Resolution No. 32—Relative to Nelson Mandela.

[Filed with Secretary of State September 20, 1985]

WHEREAS, The right to free speech and the right to organize are cherished principles of democracy; and

WHEREAS, Under the system of apartheid, the basic rights to every human being that democracy proclaims are suppressed with brute force and racist conviction; and

WHEREAS, Political leaders demanding justice and freedom from apartheid have been banned, imprisoned, or in the case of Steven Biko, killed; and

WHEREAS, Since 1962, Nelson Mandela has been imprisoned, spending over 20 years in the notorious Robben Island Prison, allowed only a half an hour visit each month, through a Perspex screen with his wife Winnie Mandela; and

WHEREAS, Over half a million signatures from 35 countries were presented to the United Nations Secretary-General calling for the immediate and unconditional release of Nelson Mandela; and

WHEREAS, Despite the brutal hostility of his imprisonment, Nelson Mandela has maintained a spirit of dignity and humanity, issuing a statement of purpose which reads "During my lifetime I have dedicated myself to the struggle of the African people. I have fought against white domination, and I have fought against Black domination. I have cherished the ideal of a democratic and free society in which all persons live together in harmony and with equal opportunities. It is an ideal which I hope to live for and achieve. But if need be, it is an ideal for which I am prepared to die."; and

WHEREAS, No real and meaningful political solution can occur without the participation of black political leadership as embodied by Nelson Mandela; now, therefore, be it

Resolved by the Assembly and Senate of the State of California jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to call for the immediate and unconditional release of Nelson Mandela and all other political prisoners in the Republic of South Africa and full amnesty for all South African political exiles; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 141

Assembly Joint Resolution No. 41—Relative to the Social Security Act.

[Filed with Secretary of State September 20, 1985]

WHEREAS, There is a general concern about the size and continued growth of the national debt; and

WHEREAS, There is some thought that scaling back the annual cost-of-living increase due under social security would help relieve that debt; and

WHEREAS, There was proposed in the Congress of the United States a debt relief package that would make provision for such a scale back in the annual cost-of-living adjustment for social security recipients as well as an increase in Medicare patient costs; and

WHEREAS, More than three million Californians who are aged or disabled, or who are survivors or dependents of persons eligible for social security benefits, depend for their economic security on social security keeping up with cost-of-living increases; and

WHEREAS, Over the past several years prior to the proposed Medicare cost increase, older Americans have borne the burden of reduction in benefits; in the last five years the Medicare hospital deduction has doubled, the physician deductible almost doubled, coinsurance for physicians' care doubled and excess charges from physicians tripled; and

WHEREAS, Past changes in social security in 1981 and 1983 have already resulted in reductions of $100 billion in social security expenditures through delays in cost-of-living adjustments, elimination of the minimum benefit, the lump-sum death benefit, and the initiation of taxation of benefits; and

WHEREAS, A freeze was imposed on social security recipients for six months in 1983 and it had no effect on the deficit then and would have little effect now; and

WHEREAS, It is now recognized that older Americans will by 1989 have lost as much as 40 billion dollars in social security benefits as a result of the previous 1983 six-month cost-of-living freeze; and

WHEREAS, It is known that any savings resulting from a scaling back of cost-of-living adjustments would have no effect on the deficit since social security benefits are paid out of separate trust funds with money received from payroll contributions, and not from general revenues; and

WHEREAS, A new scaling back of social security cost-of-living adjustments would cause the average beneficiary in 1986 alone to suffer a benefit loss of five hundred ninety-three dollars ($593) per individual over the next three years and force another one-half million more senior persons, mainly elderly women 72 years of age and older, below the poverty line; and

WHEREAS, A scale back in benefits at the 1985 level would cause a multibillion dollar income loss to recipients for the next three years and a decrease in all future benefit levels; and

WHEREAS, Any further cuts in social security, coupled as proposed with a simultaneous one hundred twenty-five dollars ($125) per year Medicare cost increase in the next three years, would

be most difficult for many elderly to cope with; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to not attempt to scale back the cost-of-living increases due under social security; and be it further

Resloved, That, as the President has suggested, the Congress be urged to immediately split social security from the federal budget, so as to remove, the temptation to use the Social Security Pension Fund as an offset to the federal deficit; and be it further

Resolved, That the President and the Congress of the United States be urged to assure the senior citizens of this state and the country that no efforts will be made to lower the social security cost-of-living increases; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 142

Assembly Joint Resolution No. 44—Relative to the American tuna industry.

[Filed with Secretary of State September 20, 1985]

WHEREAS, The American tuna industry contributes significantly to the economy of California by the employment of over 1,200 persons and an annual payroll of over 14 million dollars; and

WHEREAS, The tuna industry in California and its employees contribute over two million dollars annually in tax revenues to the federal, state, and local governments; and

WHEREAS, The existence of the American tuna industry reduces expenditures from the Unemployment Insurance Fund by an estimated two million four hundred thousand dollars annually, because persons employed in the tuna industry do not draw unemployment compensation benefits; and

WHEREAS, The loss or destruction of the domestic tuna industry would increase welfare costs by an estimated three million four hundred thousand dollars annually and Medi-Cal costs by an estimated two million two hundred thousand dollars annually, since a significant number of employees, if displaced, would require public assistance and medical care the costs of which would be borne by the federal, state, and local governments; and

WHEREAS, The tuna industry also benefits the tourist business in

San Diego, which designates one week each year as "Tuna Week," and many visitors come to view the fishing fleet; and

WHEREAS, In addition to food for human consumption, many products are derived from tuna, including pet food, fish meal, and commercial agricultural fertilizers; and

WHEREAS, In recent years, the American tuna industry has been experiencing severe setbacks and reductions in operations, and in the continental United States only one major tuna cannery remains in operation; and

WHEREAS, The loss or destruction of the American tuna industry, in addition to causing great personal and community hardships, would worsen the international trade imbalance currently being experienced by the United States and make this nation even more dependent upon imports; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of California respectfully memorializes the President and Congress of the United States and the International Trade Commission to review those trade practices which adversely affect the American tuna industry and do everything in their power to strengthen and support this vital segment of the economy; and be it further

Resolved, That the Legislature encourages Californians and all Americans to buy tuna in support of this essential American industry; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the International Trade Commission.

RESOLUTION CHAPTER 143

Assembly Joint Resolution No. 46—Relative to Jewish citizens of the Soviet Union.

[Filed with Secretary of State September 20, 1985.]

WHEREAS, It has come to the attention of the Legislature of the State of California that the Union of Soviet Socialist Republics has denied permission to emigrate to Leonid Bialy and Judit Ratner, Benjamin Bogomolny, Dr. Victor Brailovsky, Ilya Essas, Grigory and Isai Goldshtein, Dr. Aleksandr and Rosa Ioffe, Gennady and Natalia Khassin, Yuli Kosharovsky, Prof. Alexander Lerner, Arkady and Helena Mai, Gregory and Natalia Rozenshtein, Elizaveta and Lev Shapiro, and Alexsandr Yampolsky, who are all Jewish citizens of the Soviet Union; and

WHEREAS, Leonid Bialy and Judit Ratner and their two sons

applied for an exit visa in 1977, but they were denied permission to emigrate because they allegedly possessed "secrets"; Judit has never had access to classified information, and Leonid, an electronics engineer, has had no such access for more than seven years; and

WHEREAS, Benjamin Bogomolný originally applied for permission to emigrate to Israel in 1966, and he has been waiting for that permission ever since; and

WHEREAS, Dr. Victor Brailovsky applied for permission to emigrate in 1973 and has been under constant KGB surveillance since then; in 1980, he was arrested, charged with "anti-Soviet agitation", and subsequently served seven months in prison and over three years in internal exile; and

WHEREAS, Ilya Essas is the son of a couple who waited 20 years to receive permission to emigrate, and he has waited 11 years for permission to join his parents in Israel; when he attempted to organize an event commemorating the Holocaust, he was threatened with arrest and the irrevocable rejection of his emigration application, and the event was canceled; and

WHEREAS, Although little is known about Semyon Frumkin, recent documents from the Soviet Union indicate that he is one of the leaders of the Jewish emigration movement; and

WHEREAS, Grigory and Isai Goldshtein, who are brothers, applied for permission to emigrate in 1971; their request was denied because of their alleged knowledge of "technical secrets" owing to their employment as physicists at a meteorological institute, but they subsequently lost their jobs and were declared "parasites"; and

WHEREAS, Dr. Aleksandr Ioffe is a prominent mathematician who decided to apply for permission to emigrate in 1967 and voluntarily resigned his job at that time to avoid exposure to classified information; nevertheless, the application of Dr. Ioffe and his family was denied on the grounds of "secrecy", he was further demoted, and the family was told that their case would not be reconsidered until their son reached draft age; and

WHEREAS, The applications of Gennady and Natalia Khassin for exit visas have been denied on the pretext that Gennady, a mathematician and physicist, and Natalia, a computer programmer, have been privy to "secrets"—despite the fact that, for several years, neither of them has held a position which would expose them to sensitive material; and

WHEREAS, The Khassins have been harassed and threatened by agents of the Soviet government because of their desire to study and teach Hebrew, their applications for permission to leave the Soviet Union, and their attempts to bring their plight to the attention of the responsible authorities and other Soviet citizens; and

WHEREAS, Yuli Kosharovsky applied for permission to emigrate in 1971, subsequently lost his job as an electrical engineer, and he has been forced to turn to odd jobs to support his family; his phone has been disconnected, his apartment repeatedly searched, and he has been imprisoned for 15-day periods on trumped-up charges; and

WHEREAS, Since 1971, Professor Alexander Lerner and his son have been waiting to emigrate to Israel to join his daughter; Professor Lerner's wife died in 1981 after 10 years of waiting for an exit visa; and

WHEREAS, Arkady Mai is an invalid World War II veteran who is in failing health, and he and his family have been repeatedly refused permission to emigrate since 1974; until recently, the Mais had conducted seminars on Jewish culture and history, but Soviet authorities ordered an end to the seminars and even stationed a police officer outside the Mais' home in order to turn away any visitors; and

WHEREAS, Ida Nudel is known as the "Guardian Angel" for her role in supplying political prisoners with warm clothing and other essential goods, and she was recently released after serving a three-year sentence for "malicious hooliganism"; and

WHEREAS, Colonel Lev Ovsicher, a decorated World War II veteran and hero of the battle of Stalingrad, was deprived of his colonel's pension after applying for emigration to Israel and now receives a private's pension; and

WHEREAS, Gregory and Natalia Rozenshtein first applied for permission to leave the Soviet Union in 1973; the Rozenshteins, who attempt to maintain an Orthodox household, have been harassed, interrogated, and arrested; and

WHEREAS, Lev and Elizaveta Shapiro applied for an exit visa in 1977 and were turned down on grounds of "secrecy" even though Lev, an electronic engineer, has never worked with any classified material; and

WHEREAS, Vladimir Slepak, one of the most prominent leaders in the Jewish emigration movement, was recently released from a labor camp; and

WHEREAS, Aleksandr Yampolsky applied for permission to emigrate in 1973; and although he is trained as an electronics engineer, he now works as a janitor to avoid a "parasite" charge; and

WHEREAS, The right to travel freely is a fundamental human right, and these Soviet citizens are entitled to fair consideration of their visa applications and freedom from harassment and threats for seeking to exercise that right; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California urges the government of the Union of Soviet Socialist Republics to allow Leonid Bialy and Judit Ratner, Benjamin Bogomolny, Dr. Victor Brailovsky, Ilya Essas, Semyon Frumkin, Grigory and Isai Goldshtein, Dr. Aleksandr and Rosa Ioffe, Gennady and Natalia Khassin, Yuli Kosharovsky, Prof. Alexander Lerner, Arkady and Helena Mai, Ida Nudel, Lev Ovsicher, Gregory and Natalia Rozenshtein, Elizaveta and Lev Shapiro, Vladimir Slepak, and Aleksandr Yampolsky to emigrate to Israel; and be it further

Resolved, That the Legislature urges the President of the United States and other federal officials to use all appropriate diplomatic

channels to attempt to persuade Soviet authorities to allow the emigration of the Soviet citizens named herein; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President, Vice President, and Secretary of State of the United States, the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Ambassador to the United States from the Union of Soviet Socialist Republics, and to the Consul General of the Union of Soviet Socialist Republics headquartered in San Francisco.

RESOLUTION CHAPTER 144

Assembly Joint Resolution No. 48—Relative to fabricated structural steel imports.

[Filed with Secretary of State September 20, 1985]

WHEREAS, The structural steel fabrication industry in California employs thousands of persons in the fabrication and erection of structural steel for seismically safe high rise buildings; and

WHEREAS, During the years 1983 and 1984, imports of foreign fabricated structural steel to the West Coast of the United States increased from 3,000 tons per year to nearly 100,000 tons per year; and

WHEREAS, The majority of those imports coming into California were from the Republic of Korea (60,000 tons in 1984) and were the result of unfair trade practices including price discrimination on raw steel products; and

WHEREAS, During 1984, the Office of the United States Trade Representative recognized the unfair nature of this import surge, and the United States International Trade Commission recommended a quota on steel imports to remedy this situation; and

WHEREAS, The United States Trade Representative has recently concluded negotiations which resulted in an agreement limiting imports of fabricated structural steel from the Republic of Korea to no more than 60,000 tons per year for the entire United States; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California commends the Office of the United States Trade Representative for its efforts in assuring free, fair trade in steel products by negotiating the voluntary import agreement with the Republic of Korea; and be it further

Resolved, That the Legislature respectfully urges the United States Trade Representative and other United States Government officials to closely monitor the agreement to achieve compliance with provisions limiting imports of fabricated structural steel to the West

Coast to approximately 20,000 tons per year for the next five years; and be it further

Resolved, That the Legislature respectfully urges the United States Trade Representative to make all necessary efforts to include fabricated structural steel in those steel products covered in the European Community Steel Arrangement as it is renewed; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the United States Trade Representative.

RESOLUTION CHAPTER 145

Assembly Joint Resolution No. 52—Relative to nuclear crisis control centers.

[Filed with Secretary of State September 20, 1985]

WHEREAS, An increasing number of scenarios, including misjudgment, miscalculation, misunderstanding, possession of nuclear arms by a terrorist group or a state-sponsored threat, could precipitate a sudden increase in tensions and the risk of a nuclear confrontation between the United States and the Union of Soviet Socialist Republics (Soviet Union), situations that neither side anticipated, intended, or desired; and

WHEREAS, The current communication links represent equipment of the 1960's and as such are relatively outdated and limited in their capabilities; and

WHEREAS, President Reagan, responding to Congressional initiatives, proposed the establishment of additional and improved communication links between the United States and the Soviet Union and other measures to reduce the risk of nuclear confrontations and has initiated discussions at a working level with the Soviet Union covering the following:

(a) The addition of a high-speed facsimile capability to the direct communication link (hotline).

(b) The creation of a joint military communication link between the United States Department of Defense and the Soviet Union Defense Ministry.

(c) The establishment by the governments of the United States and the Soviet Union of high-rate data communication links between each nation and its embassy in the other nation's capital; and

WHEREAS, United States Senators Sam Nunn (D-Georgia), John Warner (R-Virginia), and Bill Bradley (D-New Jersey) sponsored an amendment to the 1985 Department of Defense Authorization

proposing the establishment of United States and Soviet Union Crisis Control Centers, which was adopted by the United States Senate by a vote of 82-0; and

WHEREAS, The establishment of crisis control centers in Washington and Moscow could reduce the risk of increased tensions and nuclear confrontations and accidental nuclear war, thereby enhancing the security of both the United States and the Soviet Union; and

WHEREAS, These centers could serve a variety of functions including the following:

(a) Discussing procedures to be followed in the event of possible incidents involving the use of nuclear weapons by third parties.

(b) Maintaining close contact during nuclear threats or incidents precipitated by third parties.

(c) Exchanging information on a voluntary basis concerning events that might lead to the acquisition of nuclear weapons, materials, or equipment by subnational groups.

(d) Exchanging information about military activities of the United States and the Soviet Union which might be misunderstood by the other party during periods of mounting tensions.

(e) Establishing a dialogue about nuclear doctrines, forces, and activities; and

WHEREAS, The continuing and routine implementation of these various activities could be facilitated by the establishment within each government of facilities, organizations, and bureaucratic relationships designated for these purposes, such as risk reduction centers, and by the appointment of individuals responsible to the respective head-of-state with responsibilities to manage these centers; and

WHEREAS, The establishment of crisis control centers would, by reducing the risk of accidental nuclear war, promote the public health and safety of every Californian, in each of our cities and counties; and

WHEREAS, The establishment of these United States and Soviet Union Joint Crisis Control Centers is more likely to occur upon a showing of broad public support for them; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California commends the President for his announced support for these confidence-building measures and for his initiation of negotiations which have occurred, and urges the President to pursue negotiations of these measures with the government of the Soviet Union, and to add to these negotiations the establishment of crisis control centers in both nations; and be it further

Resolved, That the Legislature supports and endorses the establishment of United States and Soviet Union Crisis Control Centers; and be it further

Resolved, That the Legislature encourages each city and county in California to join in this endeavor to support the creation of the

United States and Soviet Union Crisis Control Centers, especially by passing a similar resolution endorsing the creation and by sending money (up to ten cents ($0.10) per resident) to the President to be held in trust for the support of the centers, the money to be raised either by initiating a public fund drive within each jurisdiction or by appropriation; and be it further

Resolved, That the Legislature encourages the people of California to enlist themselves, their families, friends, neighbors, and colleagues in this endeavor to show the President and Congress that there is broad public support for the establishment of crisis control centers; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to each city and county in California.

RESOLUTION CHAPTER 146

Assembly Joint Resolution No. 54—Relative to the Major Arthur D. Nicholson, Jr., Gate.

[Filed with Secretary of State September 20, 1985]

WHEREAS, Since the wanton murder of Major Arthur D. Nicholson, Jr., United States Army, on Sunday, March 24, 1985, an appropriate response to the Union of Soviet Socialist Republics has been of major importance; and

WHEREAS, The Free World in general, and the United States in particular, cannot permit this heinous act to pass without our severest criticism and condemnation; and

WHEREAS, As citizens of the United States, enjoying freedom unparalleled in the world, freedom that is unfortunately neither recognized nor appreciated by many, we cannot passively sit by while the memory of this wicked act fades from the minds of the freedom loving peoples of the world; and

WHEREAS, These acts by the Soviet Union cannot be permitted to continue—first it was Korean Air Lines 007—next it was Major Arthur D. Nicholson, Jr.—and we must ask: Where will the next act of violence take place?; and

WHEREAS, Renaming "Check Point Charlie," which links West Berlin with East Berlin, as the "Major Arthur D. Nicholson, Jr., Gate," would be a fitting reminder of the need for constant international vigilance of this international peril, and would constitute a memorial to Major Nicholson; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, That the President and the Congress be memorialized to rename

"Check Point Charlie" as the "Major Arthur D. Nicholson, Jr., Gate" in memory of the supreme sacrifice that Major Nicholson gave for the good of humankind, and as a reminder that all citizens of the world must be vigilant against future Soviet violence and aggression; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 147

Assembly Joint Resolution No. 57—Relative to the Smoot-Hawley Tariff Act of 1930.

[Filed with Secretary of State September 20, 1985]

WHEREAS, Under applicable provisions of the Smoot-Hawley Tariff Act of 1930 (19 U.S.C.A. Sec. 1307) all goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in any foreign country by convict, forced, or indentured labor must be excluded from entry into this country; and

WHEREAS, The Secretary of the Treasury is directed by the tariff act to prescribe by regulation for the enforcement of the act; and

WHEREAS, In 1982 alone, the United States imported approximately $228,000,000 worth of goods from the Soviet Union, with a large amount of those goods being made by industries which wholly or partially rely on forced labor; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorialize the Secretary of the Treasury to adopt appropriate regulations which identify goods being imported into this country and which have been made, in whole or in part, by forced labor in the Soviet Union; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Secretary of the Treasury and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 148

Assembly Joint Resolution No. 64—Relative to Canadian timber imports.

[Filed with Secretary of State September 20, 1985]

WHEREAS, Over the last few years, the California timber industry, long one of the most productive segments of the state's economy, has experienced a substantial decline leading to the closing of many mills and the loss of 7,000 timber jobs, further depressing the economy of rural California and creating much hardship for timber and wood workers; and

WHEREAS, The decline of the timber industry has been caused by a number of problems beyond the control of the industry, including high interest rates, a decline in the housing market, and urban encroachment into forest lands; and

WHEREAS, A major impediment to the revitalization of the timber industry is the encroachment of subsidized Canadian softwood into the American timber market, now at 32 percent, caused by the Canadian government's practice of pricing stumpage at substantially lower amounts than fair market price in the United States, creating an unfair price subsidy for Canadian timber; and

WHEREAS, This subsidy is not only disruptive to the California timber industry, but may cause Canada to suffer long-term environmental and economic damage through its practices of rapidly mowing down its forests for United States dollars; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation aimed at ending Canada's unfair advantage over the domestic timber industry, preferably through a negotiated and amicable settlement between our two nations, or, failing that, through the imposition of a tariff as is the practice with government subsidized products of many other nations, or through a quota system to limit the size of Canada's American timber market; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 149

Assembly Joint Resolution No. 66—Relative to federal transportation assistance programs.

[Filed with Secretary of State September 20, 1985]

WHEREAS, The federal Surface Transportation Assistance Act of 1982 (P.L. 97-424) provides a four-year authorization for federal programs of assistance to states for transportation projects; and

WHEREAS, The present act is due to expire at the end of the 1986 federal fiscal year, and it is anticipated that a new multiyear authorization will be considered in Congress over the next several months; and

WHEREAS, Several elements of the new assistance bill are anticipated to be of critical interest to California; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to be guided by the following considerations in formulating a new multiyear transportation assistance authorization:

(1) The federal funding commitment to the interstate highway system as presently defined should be extended beyond the current 1990 interstate completion deadline. This federal funding should be assured together with additional funding made available for other high priority noninterstate completion projects.

(2) The new multiyear transportation assistance act should provide for the continuation of the 85 percent minimum funding to each state based on its contributions to the federal highway trust fund;

(3) The number of transportation assistance program categories should be reduced or consolidated in order to provide the states with a maximum of flexibility in the use of federal funds and an increased ability to transfer funds between programs with fewer categorical restraints so that the states may address their own unique transportation requirements;

(4) Any changes or adjustments in apportionment formulas should show a close correlation to highway usage criteria rather than other, less relevant factors;

(5) Federal obligation ceilings for the highway program should be increased or adjusted in order to allow states to spend apportionments that have been made available to them; and

(6) Key interstate highway system completion projects should have access to interstate highway discretionary funding without regard to the status of a state's unobligated balance of federal funds and without impairing the state's existing level of obligational authority; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 150

Assembly Joint Resolution No. 70—Relative to Santa Ana River flood control.

[Filed with Secretary of State September 20, 1985]

WHEREAS, The greatest flooding threat in the State of California, and possibly in the United States, is the Santa Ana River in San Bernardino, Riverside, and Orange Counties; and

WHEREAS, The United States Army Corps of Engineers has been studying plans for reducing Santa Ana River potential flood damages since 1964; and

WHEREAS, The United States Army Corps of Engineers has estimated that, with existing flood control facilities, a flood like that which occurred in 1862 could harm two million people and cause damages and economic losses estimated at over $12,000,000,000 (in 1983 dollars); and

WHEREAS, There is agreement among the three involved counties and the State of California that the All-River Protection Plan is the preferred plan for reduction of flood damages due to overflowing of the Santa Ana River; and

WHEREAS, The remaining major question regarding that plan is the configuration of the certain upper basin flood storage facilities; and

WHEREAS, Most of the hazard to people and property exists in Orange County below Prado Dam; and

WHEREAS, The configuration of facilities needed at and below Prado Dam are agreed to by all parties concerned; and

WHEREAS, The logical start of construction should occur at and below Prado Dam; and

WHEREAS, Further delay in authorization and funding of initial construction increases the jeopardy of up to two million people; and

WHEREAS, Since the minimum period of time required to construct the entire project is 10 years and more likely will extend beyond the year 2000, it is essential that the Legislature express to the federal government the Legislature's policy for flood control in the Santa Ana River Basin; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to authorize construction of the All-River Protection Plan alternative of the Santa Ana River Main Stem Flood Control Project during the 99th Session of Congress and to appropriate the funds needed to start construction during fiscal year 1987; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Chief of the United States Army Corps of Engineers, to the Speaker of the House of Representatives, and to each Senator

and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 151

Assembly Joint Resolution No. 73—Relative to veterans' mortgage subsidy bonds.

[Filed with Secretary of State September 20, 1985.]

WHEREAS, The issuance of nongovernmental use bonds nationwide has increased over 300 percent between 1975 and 1983; and

WHEREAS, During this same period, the issuance of general obligation bonds used to finance veterans' home mortgages has increased less than 20 percent; and

WHEREAS, From 1983 to the present time, the principal amount of all veterans' home mortgage general obligation bonds has actually decreased because of limitations on their tax-exempt status imposed by Title VI of the Tax Reform Act of 1984 (P.L. 98-369; 98 Stat. 901 et seq.), which restricts the issuance of these bonds to not more than 340 million dollars per year; and

WHEREAS, From its inception in 1921 to 1984, the State of California has issued over seven billion dollars in general obligaton bonds under the veterans' farm and home purchase program known as "Cal-Vet" and these funds have assisted California veterans in acquiring over 370,000 homes; and

WHEREAS, During its entire history, the Cal-Vet program has been entirely self-sufficient, with the result that there has been no cost whatsoever to the taxpayers; and

WHEREAS, Approximately one million of the more than three million California veterans served during the Vietnam era and are thereby eligible for farm and home purchase assistance under the Cal-Vet program, which restricts its benefits to veterans applying within 25 years of discharge from the armed services; and

WHEREAS, The present limitation of 340 million dollars in general obligation bonds plus an additional 100 million dollars in revenue bonds means that only approximately 6,200 veterans per year are able to actually receive home purchase assistance under the program, a number which is considerably below the demand for Cal-Vet benefits; and

WHEREAS, These veterans have served their country at great personal sacrifice in time of need, their number is continually diminishing so that their needs are immediate, and, for many of these veterans, the Cal-Vet program represents their only realistic opportunity to acquire a home of their own; now, therefore, be it

Resolved by the Assembly and Senate of the State of California,

jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to exclude veterans' mortgage subsidy bonds from any restrictions on the issuance by the states of nongovernmental use bonds, so that Cal-Vet bonds and other similar bonds retain their tax-exempt status to make them attractive as reasonable investments in order that these vital veteran housing assistance programs may continue to fulfill their demonstrated need; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 152

Assembly Joint Resolution No. 75—Relative to Africanized bees.

[Filed with Secretary of State September 20, 1985]

WHEREAS, The California bee industry provides vital pollenization to a wide variety of agricultural crops which annually contribute four billion dollars towards the overall 14 billion dollars worth of California agriculture; and

WHEREAS, California is home to one of the leading honey producing industries in the nation, having a cash value exceeding 21 million dollars; and

WHEREAS, The bee industry, which is vital to the State of California and the nation, is being jeopardized by the anticipated invasion of Africanized bees from Central America; and

WHEREAS, The Africanized bees have already destroyed the honey industry of Venezuela by reducing its production of honey from 13 million pounds of honey per year in 1975 to 200,000 pounds of honey produced per year by 1981; and

WHEREAS, The Africanized bees are an extreme financial hazard to California's bee industry due to their inefficient pollenization, and, because they carry the varroa mite, a parasite that kills 90 to 95 percent of the honey bees, they are a health risk to European honey bee colonies; and

WHEREAS, Due to their aggressive behavioral traits, they are an imminent threat to the well-being of the human and animal populations; and

WHEREAS, It has been documented that over 100 people and 1,000 animals have already been killed by these bees in South America; and

WHEREAS, The California Legislature believes that a genetic dilution program may be successful in breeding out much of the

Africanized bees' nonproductive, hostile traits; and

WHEREAS, The Animal Plant Health and Quarantine Service of the United States Department of Agriculture has an ongoing program to curb the Mediterranean fly with a sterile rearing and release program in Mexico which has reduced the threat of the devastating Medfly to this country; and

WHEREAS, Building on the successes of the sterile Medfly program, there is an opportunity within the next five to seven years, before the Africanized bees are permanently in the United States, to minimize their detrimental impact on California's healthy bee industry, prosperous agriculture, and overall economy; and

WHEREAS, The damage caused by the Africanized bees cannot be minimized without adequate funding and technical support from the United States Department of Agriculture; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Secretary of Agriculture and the United States Department of Agriculture, to establish a research and pest control program in Mexico for the minimization and neutralization of the Africanized bees; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Agriculture, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 153

Assembly Joint Resolution No. 76—Relative to competition in military procurement.

[Filed with Secretary of State September 20, 1985]

WHEREAS, General Dynamics has been virtually the sole supplier of fighter aircraft to the Pentagon under the "sole source" noncompetitive contract of the Defense Department; and

WHEREAS, General Dynamics has, as a result, been able to offer its F–16C Falcon to the Pentagon at an inflated noncompetitive price of approximately $19.5 million; and

WHEREAS, In response to Northrop Corporation's offer to sell to the Pentagon its comparable F–20 Tigershark, which was developed at no cost to the taxpayers, at a cost savings of approximately $4.5 million per plane, General Dynamics then countered with an offer of $2 million per plane less than Northrop Corporation's offer for a scaled-down version of the F–16 and contingent on the purchase of a specified number of F–16s at the regular price; and

WHEREAS, The advantages of competition in military

procurement become immediately evident in the competitive bidding process between General Dynamics and Northrop Corporation, such as:

(1) Improved quality products;

(2) The incentive to continually improve the product for efficiency and cost-effectiveness;

(3) Resultant benefits to the provider in improved management of its operations and manufacture of its product at economically efficient levels;

(4) The benefit to the government in having a choice of alternative comparable products, to select that which best suits particular military needs at the lowest price; and

WHEREAS, The benefits of competition will flow to the nation in the form of reduced spending in the defense budget; and

WHEREAS, Taxpayers benefit from the knowledge that their tax dollars earmarked for defense are spent in the most efficient manner; now, therefore, be it

Resolved, by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to direct the Secretary of Defense and the Pentagon to consider the advantages of competition and to utilize competitive bidding procedures, before awarding defense contracts to defense contractors for the procurement of military hardward, software, and related services, as, for example, in deciding whether to select General Dynamics' F-16 Falcon or Northrop Corporation's F-20 Tigershark, or both, as the tactical fighter; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Defense, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress.

RESOLUTION CHAPTER 154

Assembly Joint Resolution No. 77—Relative to national recognition of Haym Salomon.

[Filed with Secretary of State September 20, 1985]

WHEREAS, Haym Salomon was an American patriot of Polish and Jewish background and a member of the Sons of Liberty; and

WHEREAS, Haym Salomon was a revolutionary patriot who was instrumental in raising the money needed to finance the American War of Independence; and

WHEREAS, Haym Salomon contributed his own resources and skill as a financier and broker to the cause of liberty during the

American War of Independence and the early years of the United States; and

WHEREAS, After the American War of Independence was over, Haym Salomon died insolvent from an illness he contracted during the conflict while imprisoned by the British for his patriotic activities; and

WHEREAS, Haym Salomon contributed much of his own resources to the United States, an amount which will never be precisely known due to the loss and destruction of records during the War of 1812; and

WHEREAS, Haym Salomon has long been recognized as the symbol of the American Jewish participation in, and contribution to, the American War of Independence; and

WHEREAS, Despite Haym Salomon's great and selfless service to the cause of liberty, no national monument or statue has ever been erected in his honor; and

WHEREAS, It is only fitting and proper to honor Haym Salomon through the placement of a statue of him in the United States Capitol Building or on the Capitol grounds and the erection of a monument to him on federal land within the District of Columbia; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation which would permit the placement of a privately funded statue of Haym Salomon in the United States Capitol Building or on the Capitol grounds and to permit the erection of a privately funded monument to Haym Salomon on federal land within the District of Columbia; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 155

Senate Concurrent Resolution No. 42—Relative to the Harold "Bizz" Johnson Interchange.

[Filed with Secretary of State September 23, 1985]

WHEREAS, Harold "Bizz" Johnson responsibly and energetically represented the interests of his northern California constituents for many years and also the interests of all Californians while serving as a respected Member of the Congress of the United States; and

WHEREAS, Bizz Johnson rose in the ranks of Congress to become

Chairman of the House Public Works Committee, in which capacity he had the opportunity to significantly influence and shape many of the transportation programs and projects vital for the development of commerce and movement of people in this and other states; and

WHEREAS, Bizz Johnson successfully broadened language in the Surface Transportation Assistance Act to allow bridges over highways, railroads, and other physical or topographical features to qualify for funding under the act's bridge replacement provisions; and

WHEREAS, The change in the bridge replacement criteria authored by Bizz Johnson permitted the use of the bridge moneys in completing the permanent construction of the State Highway Route 92-101 interchange in California; and

WHEREAS, The completion of the Route 92-101 interchange provided for the replacement of a temporary bridge structure, including temporary wooden bridge pilings which had deteriorated to the point of being unsafe to the motorists and vehicles traveling over the structure; and

WHEREAS, In addition to helping secure needed bridge funds, Bizz Johnson provided guidance and worked with local representatives and officials, the Metropolitan Transportation Commission, the California Transportation Commission, and the Department of Transportation in securing the bridge's construction authorization, completing the environmental impact work, and letting the construction contract; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the State Highway Route 92-101 interchange be designated the Harold "Bizz" Johnson Interchange; and be it further

Resolved, That the Department of Transportation be directed to determine the cost of appropriate plaques and markers, consistent with signing requirements for the state highway system, showing this official designation and, upon receiving donations from private sources covering that cost, to erect those plaques and markers; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Director of Transportation; and be it further

Resolved, That the Secretary of the Senate transmit a suitably prepared copy of this resolution to Harold "Bizz" Johnson.

RESOLUTION CHAPTER 156

Senate Concurrent Resolution No. 43—Relative to the Chinese American Community and Cultural Center.

[Filed with Secretary of State September 23, 1985]

WHEREAS, For 130 years Chinese Americans have played an active and vital role in the cultural and economic growth of Los Angeles; and

WHEREAS, The Chinese American community has contributed positively throughout the years to the development of trade between California and nations across the Pacific; and

WHEREAS, Chinatown, located in downtown Los Angeles, which serves as a recognized core of Chinese culture in the United States, has no community facility dedicated to the preservation and cultivation of the special traditions of Chinese Americans; and

WHEREAS, The 1.7 acre parcel designated Los Angeles County Lot 45 offers the optimal location for the construction of a 50,000 square foot Chinese American Community and Cultural Center with the additional potential for related commercial and residential uses; and

WHEREAS, The value of the proposed cultural center is comparable to the highly successful Japanese American Community and Cultural Center located in the Little Tokyo district of downtown Los Angeles; and

WHEREAS, There is substantial public support for the proposed Chinese American Community and Cultural Center project and the Los Angeles County Board of Supervisors has actively worked with the local Chinese American Community Coalition to create viable proposals for the development of County Lot 45 which include the construction of a Chinese American Community and Cultural Center; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature of the State of California respectfully urges the Los Angeles County Board of Supervisors to approve a proposal for the construction of a Chinese American Community and Cultural Center and related facilities on Los Angeles County Lot 45 to be implemented in cooperation with the Los Angeles City Community Redevelopment Agency and the local Chinese American Community Coalition; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Chairperson and members of the Los Angeles County Board of Supervisors, to each Senator from California in the Congress of the United States, and to each Representative from California in the Congress of the United States representing the County of Los Angeles.

RESOLUTION CHAPTER 157

Senate Joint Resolution No. 20—Relative to daylight saving time.

[Filed with Secretary of State September 23, 1985]

WHEREAS, Widespread participation of citizens in the political process is vital to the very essence of a democratic society; and

WHEREAS, The people of California and of the United States have held steadfastly to the democratic system of governance for many generations; and

WHEREAS, It has been amply demonstrated that many potential voters at presidential elections fail to cast their ballots solely because they are discouraged by early projections of election winners as broadcast by the electronic media prior to the closing of the polls; and

WHEREAS, The nationwide presidential election returns are significantly distorted when large numbers of California voters fail to participate in the election; and

WHEREAS, Such missing votes often significantly affect the outcome of numerous local and statewide election contests; and

WHEREAS, It is in the public interest and supportive of a democratic society to encourage full participation in voting; and

WHEREAS, A reduction of the time differential from three to two hours between the west and the east coast would serve as a partial solution to this problem; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature respectfully memorializes the President and the Congress of the United States to amend the Uniform Time Act of 1966 (Title 15, U.S.C. Sec. 260 et seq.) to allow the western states in the Pacific Time Zone to extend daylight saving time until after the presidential general election; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 158

Senate Joint Resolution No. 31—Relative to immigration quotas.

[Filed with Secretary of State September 23, 1985.]

WHEREAS, A little known provision of federal immigration law artificially limits immigration from nonwhite colonial areas; and

WHEREAS, When first imposed in 1952, the colonial quota affected residents of the Caribbean Islands seeking to enter this

country; and

WHEREAS, This antiquated and discriminatory colonial quota now, as a practical matter, applies only to individuals born in Hong Kong who seek to immigrate to the United States; and

WHEREAS, For colonies such as Hong Kong, current law limits immigration to only 600 visas a year, compared with the 20,000 visa standard for independent nations; and

WHEREAS, A bill in the House of Representatives, H.R. 1482, that would raise the colonial quota from Hong Kong from 600 to 5,000 visas a year, was introduced March 8, 1985, by Norman Mineta (D-California); and

WHEREAS, There is a particular urgency to this legislation now that Great Britain has agreed to relinquish control of Hong Kong to the People's Republic of China in 1997, because at that time Hong Kong will presumably lose its limited status as a "colony" and thereafter be included within the overall quota for China; and

WHEREAS, There are many thousands of people who wish to leave Hong Kong before 1997, and this legislation would facilitate the entry of many of these individuals to the United States; and

WHEREAS, Without this legislation, only a few visas could be issued to Hong Kong residents before the return of Hong Kong to a Communist government; and

WHEREAS, In both the 97th and the 98th Congresses, proposals to raise the colonial quota to 3,000 visas a year were adopted without opposition; and

WHEREAS, With the return of Hong Kong to China just 11 years away, we must act with dispatch to allow a reasonable number of people now in Hong Kong to leave before 1997; and

WHEREAS, The vast bulk of these visas would be issued to relatives of United States citizens and permanent residents; and

WHEREAS, All visas would be issued in accordance with the existing system of preferences; and

WHEREAS, The current colonial quota is artificially low and discriminatory on its own, but the situation in Hong Kong makes the problem all the more urgent; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California memorializes the President and the Congress of the United States to enact H.R. 1482 to raise the yearly quota for immigrants from Hong Kong from 600 to 5,000; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.